

**2025 HOUSE INDUSTRY, BUSINESS AND LABOR**

**HB 1393**

# 2025 HOUSE STANDING COMMITTEE MINUTES

## Industry, Business and Labor Committee Room JW327C, State Capitol

HB1393  
1/20/2025

A BILL for an Act to amend and reenact section 26.1-03-10 of the North Dakota Century Code, relating to the publication of an abstract of annual statement.

9:30 a.m. Chairman Warrey called the meeting to order

Members Present: Chairman Warrey, Vice Chairman Ostlie, Vice Chairman Johnson, Representatives Bahl, Brown, Christy, Finley-DeVille, Grindberg, Kasper, Koppelman, D. Ruby, Schatz, Schauer, Vollmer

### **Discussion Topics:**

- Transparency and compliance
- Earned wage access (EWA) loan
- Penalty for non-compliance
- Enforcement and penalties

9:42 a.m. Representative Jason Dockter, District 7, Bismarck, ND, introduced and testified.

9:46 a.m. William "Bill" Kalanek, representing ND Pawnbrokers Association/Catalis, testified in favor and submitted testimony #30053.

10:11 a.m. Gerald "Jay" Couture, President of the ND Pawnbrokers Association/Owner Jay's Pawnshop, testified in favor.

10:17 a.m. Andrew P. Welch, Government Relations Manager - Central Region, DailyPay, LLC, testified in opposition and submitted testimony #29887.

10:39 a.m. Ryan Naples, DailyPay, LLC testified in opposition and submitted testimony #30013.

10:44 a.m. Corey J. Krebs, Assistant Commissioner, ND Department of Financial Institutions, testified as neutral and submitted testimony #30227.

### **Additional written testimony:**

Molly Jones, Payactiv, submitted testimony in opposition #29998.

Phil Goldfeder, CEO, American Fintech Council, submitted testimony in opposition #29831.

Garth McAdam, General Council, ZayZoom, submitted testimony in opposition #29833.

Aden Hizkias, Policy Advisor, Chamber of Progress, submitted testimony in opposition #29845.

Ben LaRocco, Senior Director, Government Relations, Earnin, submitted testimony in opposition #29933.

House Industry, Business and Labor Committee

HB 1393

1/20/25

Page 2

Sarah Mamula, Head of Government Affairs, Financial Technology Association, submitted testimony in opposition #29968.

Tara Rider, VP, Policy and Government Relations, Brigit, submitted testimony in opposition #29996.

Kevin Lefton, General Council, Wagestream, submitted testimony in opposition #30081.

11:00 a.m. Chairman Warrey closed the hearing.

*Diane Lillis, Committee Clerk*



American Fintech Council Testimony

TO: North Dakota House Committee on Industry, Business, and Labor

FROM: Phil Goldfeder, CEO, American Fintech Council (AFC)

DATE: January 20, 2025

SUBJECT: House Bill 1393

***Position: Oppose.***

***Testimony:***

Thank you Chair Warrey, Vice-Chairs Johnson and Ostlie, and members of the House Committee on Industry, Business, and Labor for providing me the opportunity to testify before you in opposition to House Bill 1393 (HB 1393), as it was introduced. My name is Phil Goldfeder, and I am a former state legislator from the state of New York and now continue in my public service as the CEO of the American Fintech Council (AFC).

AFC is the premier trade association representing the largest financial technology (Fintech) companies, including the biggest providers and largest number of Earned Wage Access (EWA) companies of any other trade association. Our mission is to promote a transparent, inclusive, and customer-centric financial system by supporting responsible innovation in financial services and encouraging sound public policy.

We have serious concerns about HB 1393, and welcome the opportunity to engage this committee in a conversation about best practices for regulating Earned Wage Access in North Dakota. AFC is a standards-based organization, and as such, we created a list of robust standards for EWA providers that is included as an appendix to our testimony. EWA is a safe and reliable alternative to higher priced alternatives and gives consumers the ability to access the money they have already earned on their own terms.

As an emerging industry, we must balance the unique services your constituents are already using with the most appropriate regulatory framework that can make sure they are protected. Combined, our member companies have served more than 20,000 North Dakota workers in 2024 and the result of this bill may eliminate this safe and affordable financial service.

We are aligned with the idea that licensure and regulation for EWA ensures that the industry is populated only by responsible operators. We have successfully worked with legislatures in several states to implement regulations around EWA services. However, the requirements set forth in HB 1393 are unreasonably restrictive and they will impact North Dakotans' access to this useful financial tool.

As a financial service, EWA has specific differences from a loan that make the provisions of HB 1393 ill-suited as a regulatory framework. EWA does not charge interest or late fees and does not conduct collection activity of any kind. While our organization fully supports 36% interest rate caps for loans, capping APR for EWA transactions at 36% is an inappropriate mechanism, given that EWA is not a loan product, and our providers do not charge interest of any kind. EWA would be more appropriately compared to an ATM machine that charges a fee to access one's own cash instantly. Simply put, EWA services are not loans and should not be regulated as such.

EWA is a critical tool serving thousands of your constituents and helping them meet the demands of an economy that is not tied to their employers' arbitrary pay periods. Passage of HB 1393 would remove access from crucial EWA services for these constituents and harm their ability to engage fully in North Dakota's economy.

In closing, I thank you again for the opportunity to raise my concerns regarding HB 1393. My sincere hope is that we can find a path forward to draft pragmatic legislation that will establish the proper guardrails for the industry while allowing all responsible EWA providers to offer their much-needed services across North Dakota.



**ZayZoon US Inc.**  
4250 N. Drinkwater Blvd., #300  
Scottsdale, AZ 85251  
www.zayzoon.com

January 17, 2025

**Submitted via Website**

**North Dakota House Industry, Business and Labor**  
600 East Boulevard Avenue  
Bismarck, ND 58505

**Re:** House Bill 1393 – A BILL for an Act to create and enact a new chapter to title 13 of the North Dakota Century Code, relating to payday lending organizations; and to provide a penalty.

To Whom it May Concern:

This letter is submitted to the North Dakota House Committee on Industry, Business and Labor (the "**Committee**") on behalf of ZayZoon US Inc. ("**ZayZoon**"), in response to House Bill 1393 ("**HB 1393**"), which relates to the regulation of earned wage access ("**EWA**") services in North Dakota. I would like to thank you all for your work on the regulation of EWA. We believe in the merits of regulation as a path to provide certainty and security for both consumers and industry participants, and appreciate your diligence regarding this important new financial tool for consumers.

ZayZoon is an employer-integrated EWA provider that partners with payroll providers and employers to provide consumers with responsible, low-cost financial services, including EWA services, financial literacy tools, and other resources. We primarily work with small to midsize businesses to provide EWA services to their employees, and we provide EWA services to businesses with as few as ten employees. Companies like Walmart can offer EWA programs in house, and we are proud that we are able to help these small businesses offer employee benefits like EWA and free financial literacy tools. This helps employees with much needed access to liquidity, and helps small businesses compete for talent.

While we support the responsible regulation of EWA services, we cannot support HB 1393 as presented, and this letter sets forth our **OPPOSITION TO HB 1393** in its present form. If passed in its present form, this bill would significantly limit access to EWA services for North Dakota workers. HB 1393 represents many carefully considered protections, but believe that North Dakota businesses and consumers are not best served by the provisions of this bill in its present form.

**The Fee Cap and Use Restrictions Will Unnecessarily Harm Consumers**

HB 1393 proposes a fee cap of ten percent of the amount paid to the consumer per EWA advance ("**Advance Fee Cap**"). While we understand and appreciate the desire to limit the costs to the consumer<sup>1</sup>, the Advance Fee Cap is an inappropriate restriction that will cause consumer harm by reducing the availability of EWA services. Consumers use EWA for any number of expenses, and budget their funds uses different methods. A percentage fee cap will simply mean small dollar advances will no longer be available to consumers. If, for example, a consumer simply wanted to access \$20 because they needed gas to get to work that day, they would not be able to do so because the permitted fee would be too low. The consumer may have limited earnings in the applicable pay period, and only have access to lower dollar amounts. Or they may prefer to leave as much as possible for their paycheck, and only access what they need at the particular time of the transaction. The cost to access \$100 is the same as \$20. The Advance Fee Cap would either force the consumer to access a greater amount of their earnings than they may desire to, or to seek alternative financial products if EWA is

<sup>1</sup> These average fees are single payment of a flat rate fee of \$2.59 - \$6.27 Financial Health Network, *Earned Wage Access Report*, p. 11, available at [https://cfsi-innovation-files-2018.s3.amazonaws.com/wp-content/uploads/2021/04/26190749/EWA\\_D2C\\_Advance-\\_sage\\_Trends\\_FINAL.pdf](https://cfsi-innovation-files-2018.s3.amazonaws.com/wp-content/uploads/2021/04/26190749/EWA_D2C_Advance-_sage_Trends_FINAL.pdf)

unavailable to them.

Similarly, the three-day restriction on use of EWA services in HB 1393 will harm consumers by unnecessarily reducing their access to this financial service, thereby pushing them back to high cost alternatives.

EWA is analogous to an ATM, and there are no restrictions on how often North Dakota consumers are permitted to use ATMs in the state. The cost to use ATMs<sup>2</sup> is comparable to EWA fees, and consumers use ATMs to get cash at an average rate of 3.8-4.7 times per month.<sup>3</sup> By limiting the number of times a worker may use EWA, HB 1393 will limit the options for liquidity available to North Dakota workers. And these workers need access to liquidity. In a survey of why our customers are using our services, **98% of our customers reported that they use EWA to pay for necessities, to avoid high fee alternatives, or for unexpected expenses.** EWA is access to liquidity, and that access is a very real, and often very urgent, need for our customers. The usage cap set forth in HB 1393 will severely limit this access.

Additionally, ZayZoon's EWA advances are generally limited to a maximum of fifty per cent of the net amount of income or wages earned. This ensures that a worker will not use the EWA services so much that they will have no funds available to them on pay day. By ensuring the consumer can access only a portion of their earned wages, ZayZoon's EWA services already balances the consumer's desire for access to their earned wages with protections against overuse.

Creating blackout periods for when a worker is permitted to use EWA services will not make the need to pay for necessities or unexpected expenses cease to be a problem for such workers. Instead, it will push workers back to using high fee alternatives. We encourage the Committee to benchmark the cost of EWA relative to the costs of not having access to it and being pushed to alternative products. The average overdraft fee in 2022 was \$29.80 and the average NSF fee is \$26.58.<sup>4</sup> According to the Consumer Financial Protection Bureau ("CFPB"), the **daily limit** on these fees varies from bank to bank, but can be as high as \$288 per day.<sup>5</sup> For debit card purchases, the median amount triggering an overdraft fee is \$24.<sup>6</sup> For ZayZoon customers that had previously incurred an overdraft fee or an NSF fee, 75% report a drop-off in the amount of overdraft and NSF fees incurred by such customers since they were able to access EWA services. For these customers, the average savings from avoiding overdraft fees per customer was \$10.96/month, and the average savings from avoiding NSF fees per customer was \$32.33/month.<sup>7</sup>

When the consumer costs are compared, we hope it's clear that EWA is a different financial product from, and an extremely desirable alternative to, overdrafts and payday loans. We urge the Committee to consider EWA services in light of the high fee alternatives available to consumers, and to amend HB 1393 to remove the Fee Cap and Use Restrictions.

### **Requiring APR Disclosures will cause confusion and mislead consumers**

APR disclosures were established to ensure consumers can make an informed use of credit. The primary purpose of APR disclosures is to ensure that consumers receive adequate information to compare different credit offers easily and make informed decisions. However, if the HB 1393 is enacted, the required disclosures regarding APR would mislead and confuse users because actual APRs will vary depending on transaction size,

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<sup>2</sup> The average out-of-network ATM fee is \$4.66. See <https://www.bankrate.com/banking/checking/checking-account-survey/>

<sup>3</sup> <https://www.paymentsjournal.com/the-demographics-of-atm-use/>

<sup>4</sup> <https://www.bankrate.com/banking/checking/checking-account-survey/> [emphasis added]

<sup>5</sup> [https://files.consumerfinance.gov/f/documents/cfpb\\_overdraft-chart\\_2022-02.pdf](https://files.consumerfinance.gov/f/documents/cfpb_overdraft-chart_2022-02.pdf)

<sup>6</sup> [https://files.consumerfinance.gov/f/201407\\_cfpb\\_report\\_data-point\\_overdrafts.pdf](https://files.consumerfinance.gov/f/201407_cfpb_report_data-point_overdrafts.pdf) p.5

<sup>7</sup> These numbers are based on surveyed ZayZoon customer data from customers, where such customers had incurred at least one overdraft or NSF fee, as applicable.



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fees paid, and duration. APR disclosure is inappropriate for EWA products because it can vary so dramatically for consumers, even though the actual dollar cost to the consumer remains the same. This will only mislead and confuse users.

APR will not help the consumer understand the costs of EWA products. It will not help the consumer understand and compare the costs of two different transactions within the same pay period, let alone in comparison to high-cost alternatives. In North Dakota, the average cost to consumers to borrow \$500 for 4 months using a payday loan is \$543, at an APR of 354%.<sup>8</sup> With most EWA providers, the cost to access \$500 is less than \$20. With the required APR disclosures, a consumer may conclude that 354% is close enough to the APR for an EWA transaction with a short repayment date, and simply settle for the payday loan. However, if the consumer is comparing the dollar cost between the two, it is clear which product the consumer will choose.

For ZayZoon, the costs are extremely simple. The consumer has several options to take a payout at no cost, or they can pay a small flat fee if taken to the consumer's bank account or non-ZayZoon prepaid card. There are no other fees, interest, or any costs to the consumer. Disclosures to the consumer are clear, simple, and extremely transparent. Disclosing a sliding scale APR that varies greatly depending on whether the consumer has a need for their money on day two or day ten of their payroll cycle will not add clarity to the consumer, and runs the risk of misleading them greatly on the actual costs of the product.

### **Conclusion**

EWA is an emerging financial tool that offers employees greater control over their finances. ZayZoon supports responsible EWA regulation, but unfortunately HB 1393 in its present form will mean employer-integrated EWA providers are unable to provide their services to North Dakota workers beyond a very limited scope.

ZayZoon is in full support of the regulation of EWA, provided it is done in a carefully considered manner that will permit North Dakota workers to continue to benefit from the service.

We sincerely appreciate your efforts to provide responsible, thoughtful legislation of EWA in North Dakota, and we would like to express our desire to work with the Committee on amendments to HB 1393.

Thank you for taking the time to consider our comments. If you have any questions about any of the comments contained in this letter, please do not hesitate to contact me at [garth.mcadam@zayzoon.com](mailto:garth.mcadam@zayzoon.com).

Sincerely,

A handwritten signature in blue ink, appearing to read 'Garth McAdam', is written over a light blue horizontal line.

Garth McAdam  
General Counsel, ZayZoon

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<sup>8</sup> See <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2022/04/payday-loans-cost-4-times-more-in-states-with-few-consumer-protections>



January 20, 2025

The Honorable Jonathan Warrey  
Chair  
House Committee on Industry, Business, and Labor  
Room JW327C, State Capitol  
600 East Boulevard Avenue,  
Bismarck, ND 58505-0360

Dear Chair Warrey and members of the Committee:

Thank you for the opportunity to submit testimony for the record regarding HB 1393. On behalf of the Chamber of Progress, a tech industry coalition promoting technology's progressive future, I write to **urge you to oppose HB 1393**.

**This legislation would significantly hinder the ability of North Dakota residents to access their earned wages ahead of receiving their paychecks - making it harder to pay bills.**

We are strong supporters of providing consumers with better alternatives to predatory lending and junk fees at banks. Earned wage and early wage access services help workers bridge the gap from today to payday, and free workers from dependency on the payroll cycle and a financial system that frequently disadvantages them.

Earned wage access operates on an agreement between the service provider and an employer, which allows the provider access to employee timesheets to determine earned wages.<sup>1</sup> On an employee's payday, the provider collects funds from the employer that were disbursed to the employee ahead of payday.

Early wage access is a similar concept, except the service provider does business directly with the consumer, without direct involvement from the employer. In this instance, the consumer downloads an application, establishes an account with the service provider and links their checking account information.

In both setups, the earned wage access provider allows users to access anywhere

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<sup>1</sup> Ask the Fed: Exploring the Rise of Earned Wage Access Programs, The Federal Reserve Bank of Kansas City (Jan. 2021). <https://www.kansascityfed.org/ten/2021-winter-ten-magazine/ask-the-fed-exploring-rise-of-earned-wage-access-programs/>

between 50-100% of their earned wages at any given time, with limits sometimes placed by the provider based on frequency and consecutive use.<sup>2</sup>

### **Earned Wage Access Promotes Consumer Choice**

Based on a survey conducted by three direct to consumer earned wage access service providers, an overwhelming number of earned wage access consumers said they understood how the service structure works and consider it the best option to manage their spending.<sup>3</sup> Earned wage access provides consumers the opportunity to stretch their dollar farther than the standard two-week pay cycle, enabling them to avoid predatory payday loans.

Consumers overwhelmingly use earned wage access services to pay bills on time, buy groceries and avoid late fees.<sup>4</sup> Notably, 8 out of 10 earned wage access consumers felt these services were the best available options to manage their spending, and 80% of users said that their life significantly improved after using these services.<sup>5</sup> Earned wage access gives consumers a safer alternative to paying bills late and getting charged bank overdraft fees that can cause a further decline into debt.

In this post-COVID, inflationary economy, the usage of earned wage access has increased across the board. From 2018 until now, these services tripled in usage in response to consumers adapting to a financial environment where they are empowered to spend without a lack of liquidity.<sup>6</sup> In fact:

- 82% of hourly workers whose employer offers earned wage access services say it is one of their favorite benefits.<sup>7</sup>
- 72% of earned wage access service users say the offering helps them feel more confident in managing their finances.<sup>8</sup>
- 95% of companies offering an earned wage access solution believe it has a positive impact on employee retention.<sup>9</sup>

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<sup>2</sup> *Id.*

<sup>3</sup> *Earned Wage Access: A Framework for Financial Inclusion*, Earnin (July 2021).

<https://www.earnin.com/assets/pdf/FTI-Earned-wage-access-memo.pdf>

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Earned Wage Access: Direct-to-Consumer Advances– Trends and Insights*, Center for Financial Services Innovation (April 2021).

[https://cfsi-innovation-files-2018.s3.amazonaws.com/wp-content/uploads/2021/04/26190749/EWA\\_D2C\\_Advance- s\\_age\\_Trends\\_FINAL.pdf](https://cfsi-innovation-files-2018.s3.amazonaws.com/wp-content/uploads/2021/04/26190749/EWA_D2C_Advance- s_age_Trends_FINAL.pdf)

<sup>7</sup> The Harris Poll. [Nearly 3 in 4 Hourly Workers Love/Like Their Job](#). March 20, 2024.

<sup>8</sup> Arizent Research. [Earned Wage Access: A Powerful, Cost-Eective Financial Wellness Tool](#). September 2023.

<sup>9</sup> Hanover Research Study. *Companies with EWA Solutions*. September 2023.

- 77% of earned wage access users state that the services help them save money by avoiding other more expensive alternatives to handle expenses.<sup>10</sup>

Additionally, the continued development of financial technology will lead to new earned wage access business models. If strict regulation is crafted around a preferred model, this may hinder innovation in this space and again, leave consumers with limited options.

Families working paycheck to paycheck are currently beholden to the 2-4 week pay cycle, trapped in a system that does not account for real life factors that cannot wait for payday. Earned wage access has an opportunity to make a greater impact by providing a service that meets the consumer where they are.

- Specifically, **the bill's cap on earned wage access at \$1,000 per consumer**, as outlined in *Section 1, Documentation of Earned Wage Access Transactions and Notifications to Consumers (6)*, **undermines the purpose of the service by restricting worker's access to their full earned wages**, potentially leaving them without critical financial support during emergencies or urgent expenses.

Like many other innovations in services, consumer choice with earned wage access will allow workers to choose the service that is best for them and their budget.

### **Earned Wage Access products are not credit and allows for financial inclusion**

Unlike traditional credit products that may affect a user's credit score through payment history and credit utilization, earned wage access services do not involve lending-related activities such as pulling credit reports, underwriting, assessing fees based on creditworthiness, charging interest, or imposing origination fees.

Earned wage access providers earn revenue through expedited transfer fees, tips, or subscription fees. These fees are typically not required or imposed for a transaction to proceed. On the contrary, consumers opt in voluntarily to receive a premium service.<sup>11</sup>

- **The bill's fee cap** outlined in *Section 1, Documentation of Earned Wage Access Transactions and Notifications to Consumers (5)*, **could stifle competition in the earned wage access market by limiting providers' ability to adjust pricing based on their unique costs and service offerings**. As a result, smaller or newer providers may struggle to cover operational expenses, reducing innovation and potentially leaving workers with fewer choices and less competitive pricing options.

<sup>10</sup> Mercator Advisory Group. [Customer Perceived Cost Savings](#). August 2022.

<sup>11</sup> Frequently Asked Questions, Earnin. <https://www.earnin.com/faqs>

This legislation would hinder earned wage access in two other ways:

- Under *Section 1, Documentation of Earned Wage Access Transactions and Notifications to Consumers* (16), these **frequency cap restrictions** could **interfere with consumers' ability to manage their cash flow effectively by limiting a consumer's ability to renew, refinance, or consolidate an earned wage access transaction within a short timeframe**, preventing individuals from accessing necessary funds when they need them most.
- Under *Section 1, Documentation of Earned Wage Access Transactions and Notifications to Consumers* (19)(h), **mandating that providers give written notice of all fees and the full potential cost of the transaction, including the annual percentage rate (APR)**, could **create unnecessary barriers to accessing earned wages**. For consumers who need quick, small-dollar access to their earnings, this requirement could overwhelm or confuse them, deterring them from utilizing the service when they are in urgent need of funds.

### **Earned Wage Access complies with federal laws**

Earned wage access providers already comply with extensive federal consumer protection and disclosure laws, including the Gramm-Leach-Bliley Act,<sup>12</sup> Electronic Signatures in Global and National Commerce Act,<sup>13</sup> and Electronic Funds Transfer Act.<sup>14</sup>

Additionally, earned wage access providers are subject to state and federal prohibitions against Unfair, Deceptive, or Abusive Acts or Practices.<sup>15</sup> Notably, even the Biden Administration's Consumer Financial Protection Bureau found that earned wage access payouts are not considered loans under Regulation Z of the Truth In Lending Act (TILA).<sup>16</sup>

With this in mind, **we urge you to oppose HB 1393.**

Thank you,

Aden Hizkias  
Policy Analyst

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<sup>12</sup> Gramm-Leach-Bliley Act, Federal Trade Commission.

<https://www.ftc.gov/business-guidance/privacy-security/gramm-leach-bliley-act>

<sup>13</sup> X.3.1: Privacy of Consumer Financial Information, Federal Deposit Insurance Corporation (Jan. 2014).

<https://www.fdic.gov/resources/supervision-and-examinations/consumer-compliance-examination-manual/documents/10/x-3-1.pdf>

<sup>14</sup> Attachment to SR 08-7: Guidance on Supervisory Expectations for the Privacy of Consumer Financial Information, Federal Reserve System. [https://www.federalreserve.gov/boarddocs/caletters/2008/0807/08-07\\_attachment.pdf](https://www.federalreserve.gov/boarddocs/caletters/2008/0807/08-07_attachment.pdf)

<sup>15</sup> Unfair, Deceptive, or Abusive Acts or Practices (UDAAPs) Procedures, Consumer Financial Protection Bureau (Sept. 2023).

[https://files.consumerfinance.gov/f/documents/cfpb\\_unfair-deceptive-abusive-acts-practices-udaaps\\_procedures\\_2023-09.pdf](https://files.consumerfinance.gov/f/documents/cfpb_unfair-deceptive-abusive-acts-practices-udaaps_procedures_2023-09.pdf)

<sup>16</sup> Truth in Lending (Regulation Z): Earned Wage Access Programs, Federal Register, vol. 85, no. 238 (Dec. 2020).

<https://www.federalregister.gov/documents/2020/12/10/2020-26664/truth-in-lending-regulation-z-earned-wage-access-programs>



# DailyPay, LLC Written Testimony

TO: North Dakota House Committee on Industry,  
Business, & Labor  
FROM: *Andrew Welch of DailyPay, LLC*  
DATE: January 20, 2025  
SUBJECT: House Bill 1393

**Position: Oppose.**

**Testimony:**

Good morning, Chairman Warrey and House Industry, Business and Labor Committee Members.

I'm Andrew Welch from DailyPay and I am testifying in opposition to House Bill 1393. DailyPay is the country's largest employer-integrated earned wage access, or EWA company.

While we may not be a household name, DailyPay has operated in North Dakota since 2015. Since then we've partnered with over 200 in-state businesses to provide over 21,000 of their employees our service.

After we sign contracts with our clients, who are businesses, we integrate with their payroll systems and then all of their employees are eligible to download our app.

For those who do, we pull their net earnings 4 times a day from our partnerships with payroll providers and if they choose, our users can access their own earned pay, before payday. These are verified earned wages, including any withholdings. Users are only ever able to access



wages they have already earned - they are not accessing credit or being loaned funds based on projected wages they hope to earn in the future.

EWA is popular with businesses because it reduces employee turnover, absenteeism, and helps with filling open jobs.

It's popular with employees because North Dakota workers today expect life on-demand, including from HR departments and payroll systems.

Almost all EWA companies share a few key characteristics: we are credit invisible, charge no origination fees, late fees, or interest, do not sell unsettled EWA debt, conduct no underwriting but instead base access on wages earned.

Most EWA providers offer instant delivery of earned wages to a bank account for a flat, one-time fee of around \$3, or at "no cost" for a transfer taking 1-3 business days. An instant transfer at "no cost" to an EWA company's debit card is also common.

Around 36% of DailyPay's clients' employees download our app, which includes a host of financial wellness tools, and about 49% of those on our platform just track their net wages and never make a transfer. The other 51% who choose to pay themselves early, access an average of \$153 of their own, already earned wages in the state of North Dakota.

Ours is a voluntary service that is there when you need it and it is not overused. Over two thirds of people take a 4 month to 1 year break after their first transaction.

While EWA does not solve for income insufficiency, it does solve for a frequency of pay problem due to biweekly pay and it is popular with employees because it saves them money. Specifically, it gives North



Dakota workers an alternative to higher cost financial products and strategies when they face the possibility of paying a bill late or missing work.

DailyPay's research from 2021 specifically found 78% of users who had previously paid bills late, saved money by using DailyPay once gaining access to our platform.

In December 2023 the Financial Health Network found that people used EWA to pay bills due ahead of their paycheck, that these users did not consider it a loan, but did believe it provided them access to the liquidity they needed, while also preserving their dignity.

This is notable and it's why EWA is best regulated as a separate and distinct financial product which codifies industry best practices, encodes consumer protections, and helps free workers from cycles of debt, not get trapped in these same cycles.

DailyPay supports the data-driven, common sense regulation of our industry that provides an equal playing field for all competitors. Currently there are laws that regulate EWA as its own financial product that will help the industry grow.

Unfortunately, this bill does not do that. Instead, while well-intentioned, this bill over-regulates our industry and places unnecessary limits on our service that would have a detrimental impact to our employer clients and their employees who use us.

We would support being regulated in the state and would welcome the opportunity to collaborate on legislation that achieves that objective. Unfortunately, House Bill 1393 must be revised in order to achieve this. Specifically, if enacted, many of this bills requirements would require



DailyPay to change how our app functions in nearly every aspect, from download, to enrollment, to viewing earned wages, to accessing earned wages.

The four most significant problems with the bill include its: (1) \$1,000 paycheck access cap, (2) the 10% per transaction fee cap, (3) the 3 day frequency cap, and (4) the required APR disclosure, regardless of the fee amount.

Below are additional details about why these four provisions require DailyPay to unfortunately oppose House Bill 1393 in its current form. I am grateful for the opportunity to provide testimony on this important piece of legislation and I would welcome the opportunity to collaborate on revisions for the committee to consider.

***Opposition further explained:***

**1 - Paycheck Access Cap:**

DailyPay does not oppose common sense regulation of our industry, provided it is based on data that shows the regulation will lead to better outcomes for our users or their employers who are also our clients.

Unfortunately, the paycheck access cap is not based on any data that would lead to positive results. The first problem with a \$1,000 paycheck access cap is logistical - it would require a revision of the contracts we have signed with the 207 businesses we work with in the state of North Dakota. Under our business model, we contract with employers and the terms of the contract set the percentage of the paycheck that is available to the employers' workers. Contract revisions are not impossible but this would be an unnecessary extra step that increases the cost of doing business for the state of North Dakota, only.



Secondly, EWA is popular with employers because it removes the expensive process of cutting a paycheck for one employee in the middle of a pay period if an employee has a short-term liquidity need. Limiting a service in this manner that employers already offer to their employees and that workers already utilize with no evidence to suggest that this limit will improve user outcomes is why we must oppose this legislation.

Lastly, this cap will likely lead to people paying more to access liquidity. The Financial Health Network 2023 study sponsored by DailyPay showed that EWA is the lowest cost financial product that employees choose to utilize. This makes sense to us because of how low cost or no-cost DailyPay's service is for our users. If this bill became law and if an employee needed to access over \$1,000 during a payroll period, there are unfortunately no other financial products or strategies that are no cost or \$3.49 like ours.

#### 2 - 10% Fee Cap:

DailyPay does not oppose per transaction fee caps. However, we do oppose caps that are not based on data. If a fee cap was to be imposed, we would ask that a study be conducted first in order to better determine the optimal fee cap that would not result in companies dramatically raising their fees or needing to dramatically lower their fees and thus potentially pull out of the state completely. This unknown impact on consumer pricing and the industry is why Nevada chose not to impose a fee cap in 2023 when it became the first state to pass a law that licensed EWA as its own financial product. Instead the Nevada law sunsets after six years and requires consumer transaction data to be disclosed every year in order to best determine if a fee cap is needed and if so, at what price.

Secondly, DailyPay does not charge interest. As mentioned above, the only fee charged on our platform is an optional one if a user chooses to access their wages early and instantly send their money to an external bank account. We are not opposed to making changes to our product as needed,



but an unnecessary regulation like this one will complicate our business model that works with employers in all 50 states. Creating a new pricing structure just for one state without any data to suggest that this will lead to better efficiency for the industry or lower costs for consumers which our employer clients prioritize, is why must oppose this bill. If anything it will almost certainly raise costs for consumers. Despite any short-term benefits to DailyPay, in the long-term our market expansion efforts would be negatively impacted by the high fees other companies may charge that would be allowed under this proposed cap, even if DailyPay kept its fee low.

### 3 - Three Day Frequency Cap:

As a product and industry created to help solve financial instability, we take accusations that our product could be radically abused or mis-used, seriously. However, in partnering with hundreds of employers across the country, this is simply not the experience that our thousands of employee-users have. Instead, it is quite the opposite. We have heard countless stories about how our platform has allowed employees to bridge short-term cash crunches and get through challenging times. For the people that are frequent users, we help them break cycles of debt that have been brought on and perpetuated by traditional lending products.

A small percentage of people may use our platform frequently when they have an emergency, but that is because it is a low cost or no-cost alternative to all other options available.

This is why a frequency cap is not needed. If our users were limited to accessing their wages with a built in arbitrary cooling off period, there is no evidence to suggest that they would be better off turning to a different financial product or strategy if they need access to liquidity on day 2.



Over the past four years, all of our research has showed that our platform works for people as its currently structured. Requiring an arbitrary 3 day frequency cap that's proposed in this bill threatens this success. This is an additional reason for why we must unfortunately oppose House Bill 1393 at this time, as its currently written.

#### 4 - Annual Percentage Rate (APR) Disclosure:

Based on how DailyPay's service is structured, disclosing an annual percentage rate for each transaction is not helpful. First, the rate would be misleadingly high, even with our low fees. It would therefore not represent the actual cost and potential savings available to our users since it obscures the actual cost of DailyPay's flat, one-time fee of around \$3.50. When compared to credit card interest, late fees, penalty fees and others fees, all cost far more in an actual dollar amount despite having a lower APR or no APR assigned to it.

In addition, federal credit law, which does not apply to EWA, does not require APR fees as low as DailyPay's current fee of around \$3.49. Specifically, the federal Truth In Lending Act does not require disclosure of an APR when charging \$5 or less on \$75 or less, or \$7.50 or less on an amount more than \$75.<sup>1</sup> This is unsurprising since, as mentioned above, it would be unhelpful and confusing to annualize low dollar fees.

In July 2024, the Biden administration proposed a federal interpretive rule that would have regulated EWA as a loan under federal law. APR disclosure would have been required if DailyPay's fee ever became high enough. The Biden administration chose not to finalize this rule. If House Bill 1393 became law as written, it would become the first state to require this unhelpful disclosure which is an additional reason why we must oppose this bill.

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<sup>1</sup> See the federal Truth In Lending Act, Regulation Z, § 1026.18(d)(2)(e) or see here: <https://www.consumerfinance.gov/rules-policy/regulations/1026/18/#d-2>



Thank you for the opportunity to provide this information and testimony in opposition to HB 1393. We encourage a **Do Not Pass Recommendation** for HB 1393. I would be willing to try to respond to any questions.

XXX



**Ben LaRocco**  
**Senior Director, Government Relations**

House Industry, Business and Labor (IBL) Public Hearing on January 20, 2025  
Testimony in Opposition to HB 1393

Mr Chairman, Members of the Committee, thank you for the opportunity to testify before the Committee today.

My Name is Ben LaRocco, and I'm the Senior Director of Government Relations for EarnIn, one of the largest providers of Earned Wage Access services, or EWA, in the country. Our mission is simple: creating a more worker friendly payroll system by giving workers access to the wages they have already earned when they need it instead of waiting for an arbitrary two or four week pay cycle.

In North Dakota, more than 7,400 residents have used our earned wage access product, including more than 3,500 last year. The top employers of our customers include: the military, especially the Air Force; Sanford Health; Walmart; and Trinity Health.

People are smart. They know how to manage their own money and choose the products that are best for them. Hard working families across the state are voting with their pocketbooks to choose EarnIn because it is safe and effective. The current business model empowers consumers because all fees are voluntary, and customers can reschedule or postpone their need to repay with no penalty if life happens and they can't repay. There are never any mandatory fees, credit checks, late fees, interest or credit reporting.

I'm speaking today in opposition to HB 1393, a bill that would essentially end the Earned Wage Access industry and force us to become a different product.

While EarnIn might solve the same consumer need, short term liquidity challenges, as existing financial products like payday loans or cash advances, it is fundamentally different. We are the consumer friendly alternative, and even left leaning states like California and the Obama CFPB have explicitly said EWA is not a payday loan. Five states have passed laws that say EWA is not a loan, and ALEC, NCOIL, and CSG model bills all similarly consider EWA to be a unique product. If North Dakota would like to regulate Earned Wage Access products, I would encourage you to look at the ALEC or CSG model bills, which we spent years working to write and adopt.

We are a new product that does not fit into existing regulatory frameworks. We strongly suggest that North Dakota consider a new framework, rather than trying to force us into an existing framework that does not fit, just because it is there.

Our customers are real people. People like you and me. They are not just numbers on a piece of paper or clever slogans. Members of the military, nurses, and warehouse workers trying to do the best with their lives. They've chosen EarnIn to help them, and we hope you will allow us to continue to do so.

Please oppose or amend HB 1393.

Thank you, and I'm happy to take any questions.



*Via Electronic Submission*

January 20, 2025

Chairman Jonathan Warrey  
North Dakota House Committee on Industry, Business & Labor  
State Capitol  
600 East Boulevard Avenue  
Bismarck, ND 58505

**Testimony: Financial Technology Association Opposition to House Bill 1393**

Good Morning, Chairman Warrey and members of the Committee. My name is Sarah Mamula, and I am Head of Government Affairs for the Financial Technology Association—an organization representing digital financial services companies (fintech), including several leading providers of Earned Wage Access (EWA).

While we understand the importance of protecting consumers as the financial services industry quickly evolves, as written, the Financial Technology Association must strongly oppose HB 1393. Without any evidence of consumer impacts or harm, HB 1393 would impose such a high degree of regulatory restriction, and far beyond that of existing frameworks, that it would effectively prohibit consumers from accessing the much-needed services our EWA members provide. If HB 1393 is signed into law, innovation and competition in the marketplace would significantly suffer.

As you are aware, EWA products are not loans and instead simply give employees access to their already-earned wages. More specifically, unlike a loan, EWA services are non-recourse and never charge interest. This means that consumers have no legal obligation to repay an advance, and providers cannot take legal action to collect payments. Customers can cancel their engagement with an EWA provider at any time. There is never a credit pull or credit reporting associated with this service. Additionally, non-repayment does not result in interest or penalty charges to the consumer, though providers typically pause access to additional EWA advances until the earlier advance is repaid.

We suggest an alternative approach to HB 1393. Specifically, FTA and numerous industry participants support the creation of an EWA registration and disclosure framework similar to those adopted in Kansas, Missouri, Nevada, South Carolina, and Wisconsin. The regulatory framework in each of those states prevents mandatory fees and collections proceedings and is inclusive to all business models. This approach provides significant consumer protections and mitigates any perceived consumer risks, while not prematurely imposing ill-fitting requirements

on an innovative area of financial services that offers consumer-friendly, consumer-protective, non-abusive, and non-predatory products. We would be happy to work with you to create a right-sized EWA regulatory and disclosure framework that enables these innovative products while ensuring North Dakota consumers remain protected when using them.

Thank you for your time.



January 20, 2025

TO: House Industry, Business, and Labor Committee  
State Capitol  
Room JW327C  
Bismarck, ND

FROM: Tara Rider  
Brigit  
36 W 20th Street  
New York, New York 10011

RE: House Bill 1393: Oppose

Chairman Warrey, Vice Chairmans Johnson and Ostlie, and members of the committee,

My name is Tara Rider and I am the Vice President of Policy and Government Relations for Brigit, a financial wellness company that offers earned wage access (“EWA”) as one of the many features in our suite of services to consumers in North Dakota and across the country. In North Dakota we serve over 10,000 consumers with an average earned wage access transfer amount of \$75.00. In addition to earned wage access, Brigit offers its customers a subscription based suite of services that include products such as identity theft protection, credit monitoring, credit building, and budgeting tools to help our customers reach financial independence.

HB 1393 as written establishes a licensing framework that the industry has long supported, however, there are several key provisions in the legislation that would improperly classify earned wage access as pay day loans which are fundamentally different from earned wage access. In 2017, under the Obama Administration, the Consumer Financial Protection Bureau exempted EWA from the payday lending rules<sup>1</sup> due to the characteristics of the earned wage access programs. In addition to

<sup>1</sup> Bureau of Consumer Financial Protection 2 CFR Part 1041, <https://www.federalregister.gov/d/2017-21808/p-1004>

<sup>2</sup>How Much Money Do Americans Have in their Bank Accounts in 2024?, Olya Gabriella, [https://www.gobankingrates.com/banking/banks/how-much-money-do-americans-have-in-their-bank-accounts-in-2024/?hyperlink\\_type=mannual](https://www.gobankingrates.com/banking/banks/how-much-money-do-americans-have-in-their-bank-accounts-in-2024/?hyperlink_type=mannual)

<sup>3</sup> Stress in America, American Psychological Association, February 11, 2024, <https://www.apa.org/news/press/releases/stress/2013/stress-report.pdf>

<sup>4</sup> Based on a 2023 survey of Brigit members.

incorrectly classifying the product, the legislation would place access limitations on consumers, and levy unnecessary database reporting burdens on providers. California, South Carolina, Wisconsin, Nevada, Missouri, and Kansas have all established regulatory and statutory requirements for data sharing and reporting with regulators. Consumers utilize earned wage access as a liquidity solution between pay cycles, ultimately helping them avoid the endless cycle of debt and incurring late fees. Placing access limitations on consumers will only drive your constituents to high cost and potentially predatory products.

As I stated earlier, HB 1393 would place earned wage access in the same category as payday lending, which mischaracterizes the product at its core. Unlike a payday loan or a traditional credit product, earned wage access requires no credit checks, does not apply interest, incurs no late fees or penalties, is non-recourse, and does not impact a user's credit score. Unlike payday lenders, EWA providers do not allow more than one earned wage access transfer at a time and do not pursue collections of EWA payments. At Brigit we recognize that an unforeseen bill or emergency may arise near a withdrawal date—we offer flexible withdrawal dates and extensions should a customer need that option.

Brigit offers its customers access to earned wage access transfers at no cost with overdraft protections in place. With our average earned wage access transfer of \$75.00 in North Dakota, there is no need for a costly database to track a customer's choice to access a small portion of their unpaid income prior to their scheduled paycheck. Payday lenders are required to report to databases to ensure that a consumer does not have multiple large payday loans at once, which may exceed the amount of their next paycheck based on a variety of factors. With earned wage access, consumers are not able to access wages that have not yet been earned.

In addition to a no-cost option for earned wage access, Brigit's customers are able to access financial wellness tools that include credit monitoring, credit building identity theft protection, budgeting tools, and financial literacy content via a low-fee monthly subscription that includes access to earned wage access transfers at no additional cost. These tools and resources have been exceptionally successful in enabling our

<sup>1</sup> Bureau of Consumer Financial Protection 2 CFR Part 1041, <https://www.federalregister.gov/d/2017-21808/p-1004>

<sup>2</sup>How Much Money Do Americans Have in their Bank Accounts in 2024?, Olya Gabriella, [https://www.gobankingrates.com/banking/banks/how-much-money-do-americans-have-in-their-bank-accounts-in-2024/?hyperlink\\_type=mannual](https://www.gobankingrates.com/banking/banks/how-much-money-do-americans-have-in-their-bank-accounts-in-2024/?hyperlink_type=mannual)

<sup>3</sup> Stress in America, American Psychological Association, February 11, 2024, <https://www.apa.org/news/press/releases/stress/2013/stress-report.pdf>

<sup>4</sup> Based on a 2023 survey of Brigit members.

customers to have a clear path out of living paycheck to paycheck and into financial wellness and independence. Over 83% of Brigit customers report that they feel less financially stressed while 72% of our customers report that they are able to perform better at work when utilizing our platform.<sup>4</sup>

In a society that is becoming increasingly difficult to afford, Brigit's offerings are a true lifeline to those in need. In a recent 2024 study, 49% of working Americans have less than \$500 in savings and are living paycheck to paycheck<sup>2</sup>, leaving many in situations where they do not have enough funds in the event of an emergency or to regularly pay bills on time. Earned wage access services, like those offered by Brigit, allow for consumers to access the funds that they have earned, but have not yet been paid. This innovative and customer-centric product bridges the gap between payday and bill due dates, alleviating stress and anxiety approximately 71% of Americans are struggling with.<sup>3</sup>

Thank you for your time and I look forward to working with you on efforts to create a responsible framework in North Dakota for earned wage access providers. I urge you to render a no vote on HB 1393 to allow your constituents to continue to access the wages they have earned as needed.

Sincerely,

Tara Rider

VP, Policy and Government Relations  
Brigit

<sup>1</sup> Bureau of Consumer Financial Protection 2 CFR Part 1041, <https://www.federalregister.gov/d/2017-21808/p-1004>

<sup>2</sup>How Much Money Do Americans Have in their Bank Accounts in 2024?, Olya Gabriella, [https://www.gobankingrates.com/banking/banks/how-much-money-do-americans-have-in-their-bank-accounts-in-2024/?hyperlink\\_type=mannual](https://www.gobankingrates.com/banking/banks/how-much-money-do-americans-have-in-their-bank-accounts-in-2024/?hyperlink_type=mannual)

<sup>3</sup> Stress in America, American Psychological Association, February 11, 2024, <https://www.apa.org/news/press/releases/stress/2013/stress-report.pdf>

<sup>4</sup> Based on a 2023 survey of Brigit members.



North Dakota House Committee on Industry, Business, and Labor  
600 E. Boulevard Avenue  
Bismarck, North Dakota 58505

**Re: Opposition to HB 1393**

Dear Chair Warrey and Honorable Members of the House Industry Business and Labor Committee:

Thank you for your leadership and dedication to ensuring the financial well-being of North Dakota's workforce. My name is Molly Jones, and I am the head of public policy at Payactiv. I am writing to express my respectful opposition to HB 1393, which categorically misunderstands earned wage access (EWA) products.

EWA is an innovative financial product that enables North Dakota families to access their already earned wages before payday, empowering them to pay bills and cover emergencies without creating debt. Unlike payday loans, EWA services are non-recourse; there is no interest, late fees, or penalties, a user can cancel at any time; and they do not impact credit scores. They are designed to be a non-debt, low-cost alternative to payday loans.

Payactiv is proud to serve North Dakota workers for the past decade. We partner with over 200 employers who offer this as a benefit to their employees. Over 5,000 workers have chosen to use this product during their time of need. When partnering with an employer, we integrate into their time and attendance and payroll systems to make an accessible balance available to employees. Only wages they have already earned are available to access. They can choose from five free options or one paid option (up to \$3.49) to access their desired amount. That amount is then deducted from their paycheck as a line-item on payday. As a worker only accesses earned wages, no debt is created, there is no interest, no late fees, or penalties.

EWA is a vital tool for many North Dakotans, especially as inflation and rising costs of living put increased strain on working families. Over half of Americans live paycheck-to-paycheck, and many lack the savings to cover unexpected expenses like medical bills or car repairs. EWA provides a responsible, accessible, and flexible alternative to high-cost debt products.

North Dakota has the opportunity to craft fair and balanced regulations that protect consumers while encouraging responsible financial tools. I urge you to reject this bill as currently written and instead work toward a framework that mirrors the successful, pro-worker approaches taken by states like Missouri, Nevada, and South Carolina.

Thank you for your consideration of this important issue.

Sincerely,

Molly Jones

Head of Public Policy, Payactiv



# DailyPay, LLC Testimony

TO: North Dakota House Committee on Industry,  
Business, & Labor  
FROM: *Ryan Naples of DailyPay, LLC*  
DATE: January 20, 2025  
SUBJECT: House Bill 1393

**Position: Oppose.**

**Testimony:**

Good morning, Chairman Warrey and House Industry Business and Labor Committee Members.

I'm Ryan Naples from DailyPay and I am testifying in opposition to House Bill 1393. We're the country's largest employer-integrated earned wage access, or EWA company. My colleague Andrew Welch is attending the hearing today in-person and I am available to help answer any questions as needed.

Enclosed in this testimony are the independent research papers sponsored by DailyPay between 2021 and 2023 that examined EWA impacts on consumer financial health. It is clear from these studies that EWA in its current form and DailyPay in particular helps workers and their employers.

Thank you for the opportunity to provide this information and testimony in opposition to HB 1393. We encourage a **Do Not Pass Recommendation** for HB 1393. I would be willing to try to respond to any questions.

XXXXXXXXXXXXXX



SEPTEMBER 2021

# EARNED WAGE ACCESS USE AND OUTCOMES

FINDINGS FROM A SURVEY OF  
DAILYPAY CUSTOMERS

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LESLIE PARRISH

## IMPACT REPORT

## TABLE OF CONTENTS

IMPACT POINTS.....	3
INTRODUCTION.....	4
METHODOLOGY .....	4
THE MARKET.....	5
DAILYPAY'S OFFERING .....	6
A SHIFT IN FINANCIAL COPING STRATEGIES .....	7
SUBSTITUTION AWAY FROM INFERIOR ALTERNATIVES	9
PERCEIVED CHANGES TO FINANCIAL CONDITION.....	13
PERCEPTIONS OF FREQUENT AND INTENSE DAILYPAY USERS.....	14
IMPACT OF DAILYPAY ON PRIOR PAYDAY LOAN BORROWERS AND OVERDRAFTERS.....	16
CONCLUSION.....	20
APPENDIX: SURVEY RESPONDENT PROFILE .....	21
RELATED AITE-NOVARICA GROUP RESEARCH .....	24
ABOUT AITE-NOVARICA GROUP .....	25
CONTACT .....	25
AUTHOR INFORMATION .....	25

## LIST OF FIGURES

FIGURE 1: REASONS FOR DAILYPAY USE.....	7
FIGURE 2: STRATEGIES BEFORE USING DAILYPAY .....	8
FIGURE 3: PREVIOUS FREQUENCY OF BILL AND LOAN PAYMENT DIFFICULTY.....	9
FIGURE 4: PREVIOUS FREQUENCY OF REQUESTS FOR FRIENDS OR FAMILY HELP .....	10
FIGURE 5: PREVIOUS FREQUENCY OF PAYDAY LOAN USE .....	11

IMPACT REPORT

SEPTEMBER 2021

## EARNED WAGE ACCESS USE AND OUTCOMES

Findings From a Survey of  
DailyPay Customers

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 LESLIE PARRISH

FIGURE 6: PREVIOUS FREQUENCY OF OVERDRAWN BANK ACCOUNT .....	11
FIGURE 7: CHANGES IN USE OF PREVIOUS STRATEGIES AFTER USING DAILYPAY .....	12
FIGURE 8: CHANGES IN FINANCIAL OUTLOOK SINCE USING DAILYPAY .....	13
FIGURE 9: FREQUENCY OF DAILYPAY USE .....	14
FIGURE 10: INTENSITY OF DAILYPAY USE .....	15
FIGURE 11: FINANCIAL OUTCOMES REPORTED BY FREQUENT USERS, RELATIVE TO LESS FREQUENT USERS .....	16
FIGURE 12: FINANCIAL OUTCOMES BY PRIOR PAYDAY LOAN BORROWING FREQUENCY .....	17
FIGURE 13: FINANCIAL OUTCOMES BY PRIOR OVERDRAFT FREQUENCY .....	18
FIGURE 14: FINANCIAL OUTCOMES FOR PRIOR USERS OF PAYDAY LOANS AND OVERDRAFT .....	19
FIGURE 15: DEMOGRAPHIC PROFILE .....	21
FIGURE 16: DAILYPAY USER HOUSEHOLD COMPOSITION .....	22
FIGURE 17: DISTRIBUTION OF DAILYPAY TENURE .....	23
FIGURE 18: TYPES OF FINANCIAL ACCOUNTS AND SERVICES	23

## LIST OF TABLES

TABLE A: THE MARKET .....	5
TABLE B: DAILYPAY EARLY WAGE ACCESS SOLUTION .....	6

## IMPACT POINTS

- This report provides insights on how an earned wage access (EWA) offering from DailyPay is used and the outcomes reported by its users. EWA companies such as DailyPay partner with employers to provide their employees the option to access any portion of their accumulated net wages at any point during the pay period rather than waiting until the scheduled payday.
- The EWA market has grown quickly over the past few years; Aite-Novarica Group estimates that about US\$9.5 billion of wages were accessed in this manner in 2020. EWA companies note that consumers often use this service to solve timing issues between bill due dates and paydays or unexpected expenses that crop up during a pay period. The revenue model for EWAs varies by company, with many charging a flat fee per access to the employee, employer, or a combination thereof.
- Aite-Novarica Group surveyed over 1,000 DailyPay users in May 2021 to better understand the strategies undertaken by respondents before DailyPay, the extent to which DailyPay use impacted the use of those prior strategies, and any changes respondents perceive related to their financial condition.
- Before using DailyPay, most respondents used one or more expensive strategies to deal with financial shortfalls, difficulty paying bills or loan payments, and timing issues between paydays, including payday loans and overdrafts to a bank account. A significant share also asked friends or family for money, which—while potentially free—may come with an emotional burden. Notably, respondents were much more likely to have used payday loans or incurred overdraft fees than the general population.
- Once respondents began using DailyPay, the vast majority were able to curb their use of (arguably) inferior or expensive alternatives. A majority of respondents believe that DailyPay has allowed them to worry about money less, budget and plan better, and reduce debt.

## INTRODUCTION

Many consumers face timing mismatches between the day they are paid and their bill due dates. Others lack even a modest amount of savings that they can quickly tap into if an unexpected expense pops up. When these issues arise, these consumers may turn to costly strategies to make ends meet. Over the last decade, a growing number of companies have started to offer EWAs in partnership with employers to help solve these issues.

This report examines the user experience for customers of a leading EWA provider, DailyPay. After a brief overview of the company's offering, Aite-Novarica Group reports on the strategies consumers used before using this EWA service, their reasons for using DailyPay, and the changes in their financial circumstances that users attribute to this product.

## METHODOLOGY

The insights in this report are informed by an Aite-Novarica Group online survey of 1,114 DailyPay users in May 2021, sponsored by DailyPay. Survey participation was promoted via an email sent by DailyPay to its customers, and those who completed the survey were entered to win one of several US\$100 Amazon gift cards. Survey results have a 95% confidence interval with a 3-point margin of error. As survey respondents are all DailyPay users, the results reflect only this product rather than the entire earned wage access market. Additional details on the demographic profile of survey respondents, which are generally consistent with DailyPay's overall customer base, are outlined in the Appendix.

## THE MARKET

The EWA market has experienced exponential growth in recent years, as a growing number of companies have begun to offer varied versions of this solution. Employers are increasingly interested in offering such an option as they witness the strain financial insecurity can cause their employees and as these solutions become more mainstream. Aite-Novarica Group estimates the EWA industry now provides an estimated US\$9.5 billion annually in wages before employees' scheduled paydays. As this industry matures, a variety of stakeholders have become interested in understanding how consumers are using accesses, the impact of their use on those consumers' behavior and overall financial condition, and what regulatory context is most appropriate for this novel product (Table A).

TABLE A: THE MARKET

MARKET TRENDS	MARKET IMPLICATIONS
Many consumers have trouble budgeting and making ends meet.	A significant share of consumers run out of money before payday, experience timing issues between when their bills come due and when they are paid, or don't have adequate savings to deal with an unexpected expense.
A growing number of technology companies are offering EWAs in partnership with employers.	Most EWA companies were founded over the last decade. They gained momentum in recent years as they convinced employers of how they could help solve for the precarious nature of employees' finances.
EWAs have proven popular among employees as their employers increasingly partner with EWA providers that facilitate access to wages.	In 2020, Aite-Novarica Group estimates that employees accessed US\$9.5 billion in earnings through EWAs. This represents a nearly 200% increase since 2018.
As the number of EWA companies and users has grown, stakeholder groups and regulators alike seek to understand EWA's impact.	EWA is a new type of product; thus, it has been debated whether an existing regulatory framework should apply or a new one should be created. The effect of its use and whether consumers are using it to substitute away from more costly alternatives or layering it on was unclear.

Source: Aite-Novarica Group

## DAILYPAY'S OFFERING

DailyPay is one of several leading companies offering earned wage access through partnerships with employers. Founded in 2015, DailyPay provides up to 100% of net wages earned at any point during a pay period for a fee ranging from US\$1.99 to US\$2.00 per access; the fee depends on how quickly the consumer wants access to the funds. Employers that elect to provide this service to their employees can set rules for the share of total net earnings that can be accessed and can opt to subsidize the cost of access for their employees. Table B outlines further details of the DailyPay product.

TABLE B: DAILYPAY EARLY WAGE ACCESS SOLUTION

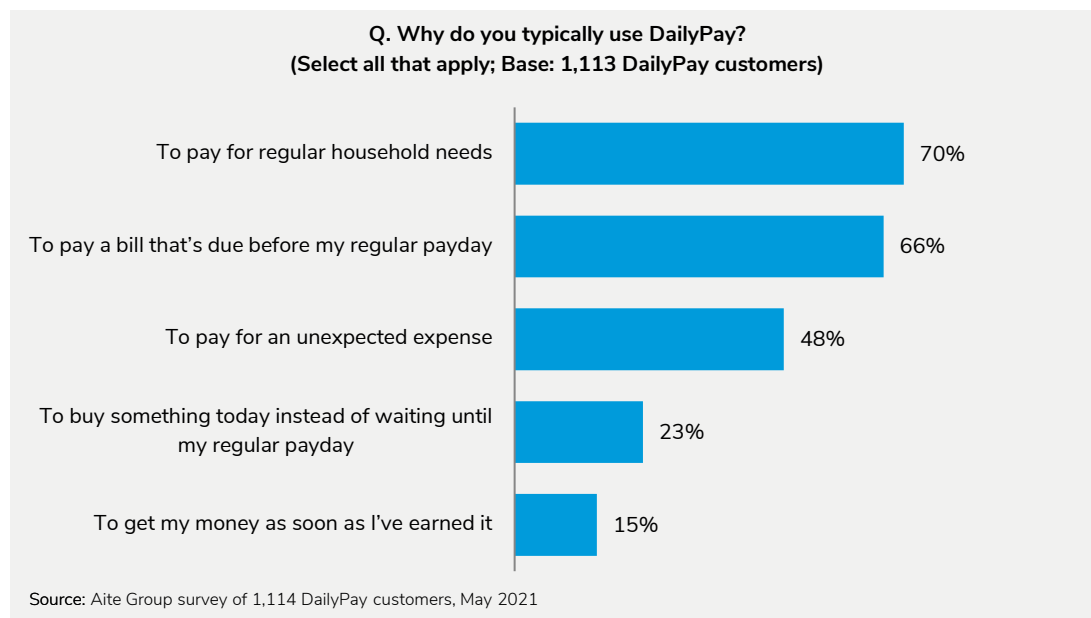
ACCESS AMOUNT	FEE	ACCESS DEPOSIT OPTIONS	OTHER SERVICES
Up to 100% of accumulated net wages; average access is US\$100	US\$1.99 (next day) or US\$2.99 (instant) fee, paid by employer, employee, or in combination	Can be deposited into any bank account or onto a prepaid card	Features that facilitate saving, disbursements of off-cycle payroll payments, and instant bonus payments

Source: DailyPay

## A SHIFT IN FINANCIAL COPING STRATEGIES

DailyPay users most commonly use EWA to deal with everyday expenses. Two-thirds of survey respondents noted that they use DailyPay to pay a bill that is due before their payday, and 70% use DailyPay to pay for regular household needs throughout the month (Figure 1). Fewer consumers use DailyPay for expenses that were unexpected or to make purchases early rather than waiting until their traditional paycheck arrives. Only about one in six users cited the desire to just generally receive funds as they were earned as a reason for using DailyPay.

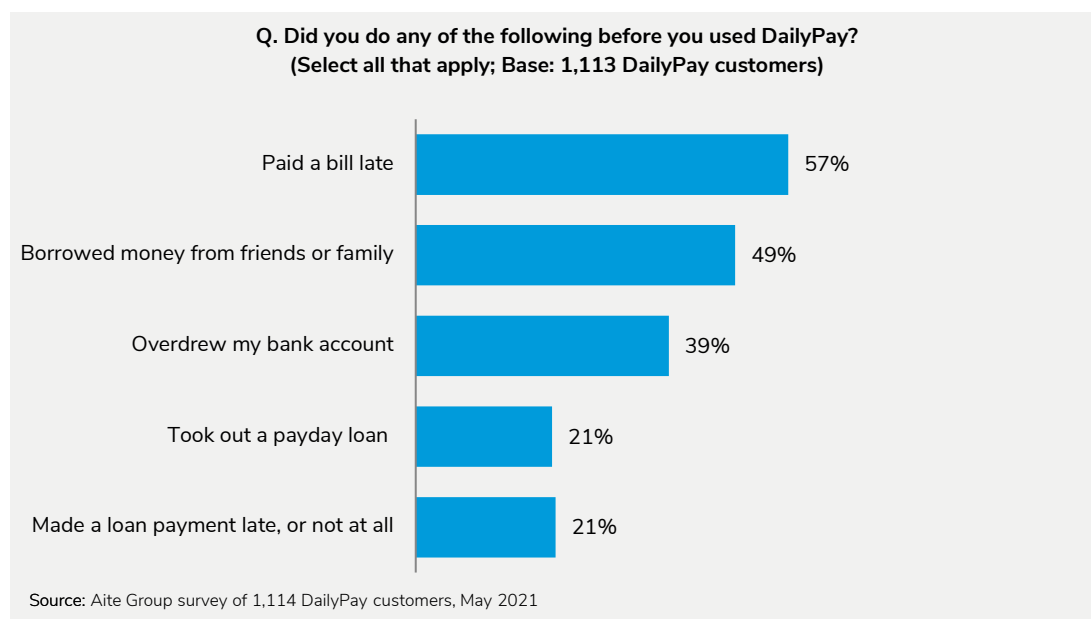
FIGURE 1: REASONS FOR DAILYPAY USE



Before using DailyPay, survey respondents used a variety of strategies to deal with expenses between paydays (Figure 2). Over half (57%) of respondents paid bills late, and about half (49%) borrowed funds from friends or family. While fewer note overdrawing a bank account or using payday loans before DailyPay, the share that did report these strategies is well above the share of U.S. adults. For example, an estimated 30% of all U.S. consumers overdraw a bank account at least once annually (with just 8%

overdrawing more than 10 times over the course of a year),<sup>1</sup> and an estimated 6% of U.S. consumers use payday loans.<sup>2</sup> The strategies asked about in the survey are considered to be inferior alternatives to DailyPay, either because they are more expensive or—in the case of asking friends or family for help—may carry an emotional burden.<sup>3</sup>

**FIGURE 2: STRATEGIES BEFORE USING DAILYPAY**



As is evident from Figure 2, many survey respondents report that they used more than one of these strategies. For example, about one in seven respondents note that they were taking out payday loans and overdrawing their bank account before using

<sup>1</sup> For more information on the share of consumers who incur overdraft fees, see “A Closer Look: Overdraft and the Impact of Opting-In,” Consumer Financial Protection Bureau, January 19, 2017, accessed July 29, 2021, [https://files.consumerfinance.gov/f/documents/201701\\_cfpb\\_Overdraft-and-Impact-of-Opting-In.pdf](https://files.consumerfinance.gov/f/documents/201701_cfpb_Overdraft-and-Impact-of-Opting-In.pdf).

<sup>2</sup> According to the Consumer Financial Protection Bureau’s Making Ends Meet survey, 5.7% of consumers took a payday loan in the 12 months prior to June 2020. See Figure 2 in “Consumer Use of Payday, Auto Title, and Pawn Loans,” Consumer Financial Protection Bureau, May 5, 2021, accessed July 29, 2021, <https://www.consumerfinance.gov/data-research/research-reports/consumer-use-of-payday-auto-title-and-pawn-loans-insights-making-ends-meet-survey/>.

<sup>3</sup> In terms of cost, a US\$300 payday loan typically has a US\$45 fee. If due in two weeks, this equates to an APR of 391%. Similarly, overdraft fees are typically around US\$34 per incident. Being late on a credit card or other loan may not only cause a consumer to be charged an additional fee but can also lower their credit score.

DailyPay. The financial and emotional toll may have been further magnified for these consumers, placing them in an even more precarious position.

## SUBSTITUTION AWAY FROM INFERIOR ALTERNATIVES

For each of these strategies noted in the survey, respondents were asked how frequently they used it before using DailyPay. Then, respondents were asked whether they added on DailyPay while continuing to use the strategy or were able to substitute DailyPay for it. Overall, respondents consistently reported a reduction or end to the use of these arguably more costly alternatives with the availability of DailyPay.

### Frequency of Previous Strategies

Those respondents who used one of the strategies prior to using DailyPay tended to use it quite frequently to deal with their financial situation. Two-thirds of respondents who reported that they either had trouble paying bills or making on-time loan payments had this issue every month (39%) or most months (28%) before they used DailyPay (Figure 3). Similarly, over half of respondents (56%) who previously asked friends or family for money did so at least once per month (Figure 4).

FIGURE 3: PREVIOUS FREQUENCY OF BILL AND LOAN PAYMENT DIFFICULTY

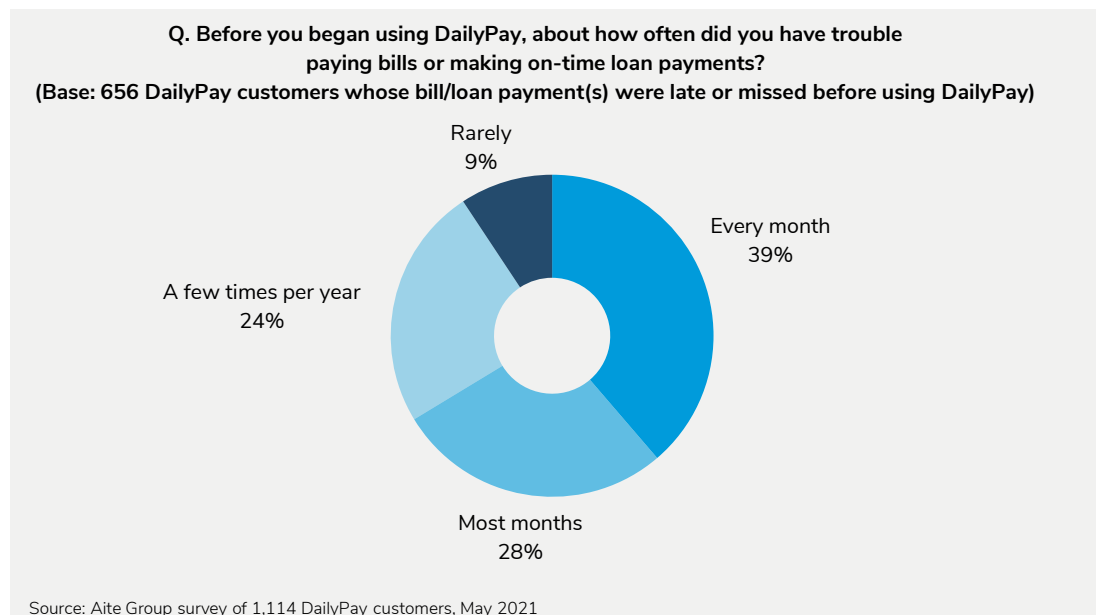
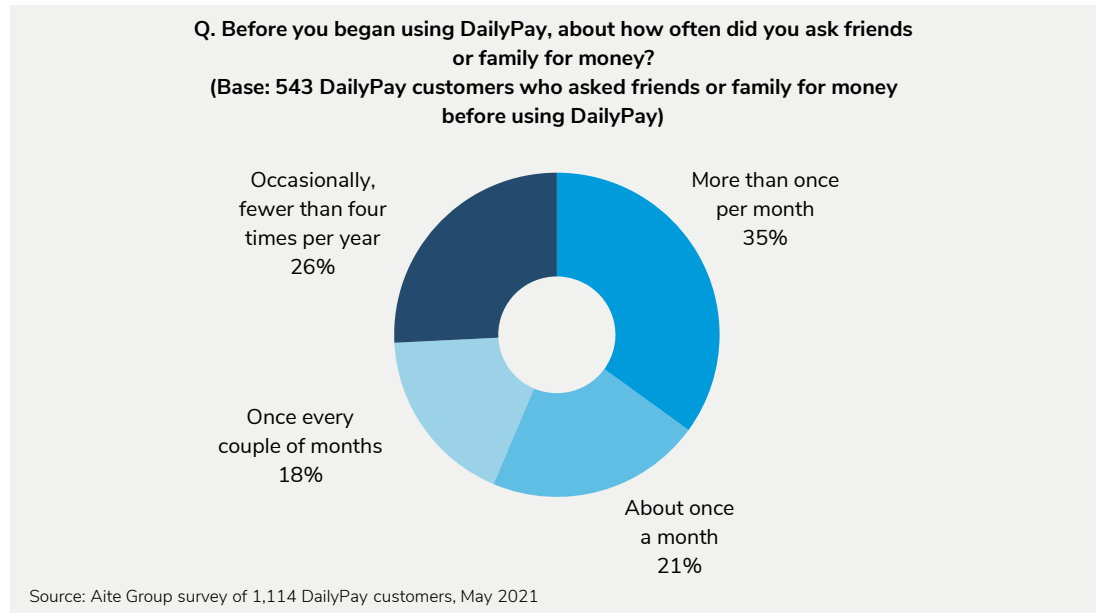


FIGURE 4: PREVIOUS FREQUENCY OF REQUESTS FOR FRIENDS OR FAMILY HELP



Payday loan borrowing and overdraft fees were also regular occurrences for respondents who previously used these strategies. For example, over a quarter (28%) of respondents who used payday loans were indebted every month, and an additional 17% were in payday loan debt much of the year (Figure 5). The frequency of overdrafts was perhaps the most pronounced among these strategies, with 38% of respondents who overdrawing their account more than once a month, and another 21% experiencing an overdraft monthly (Figure 6).

FIGURE 5: PREVIOUS FREQUENCY OF PAYDAY LOAN USE

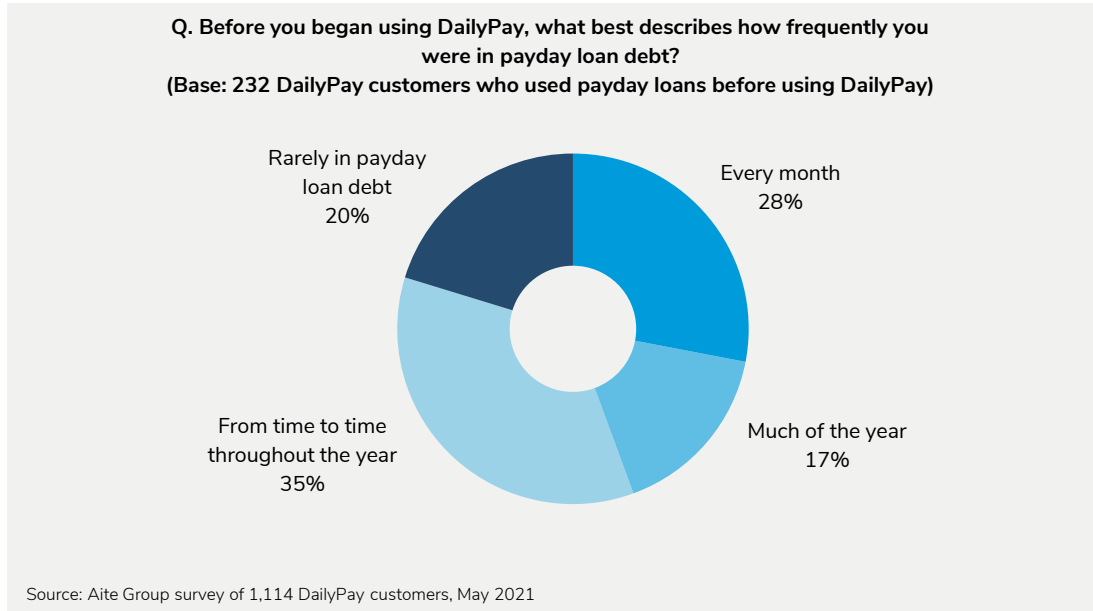
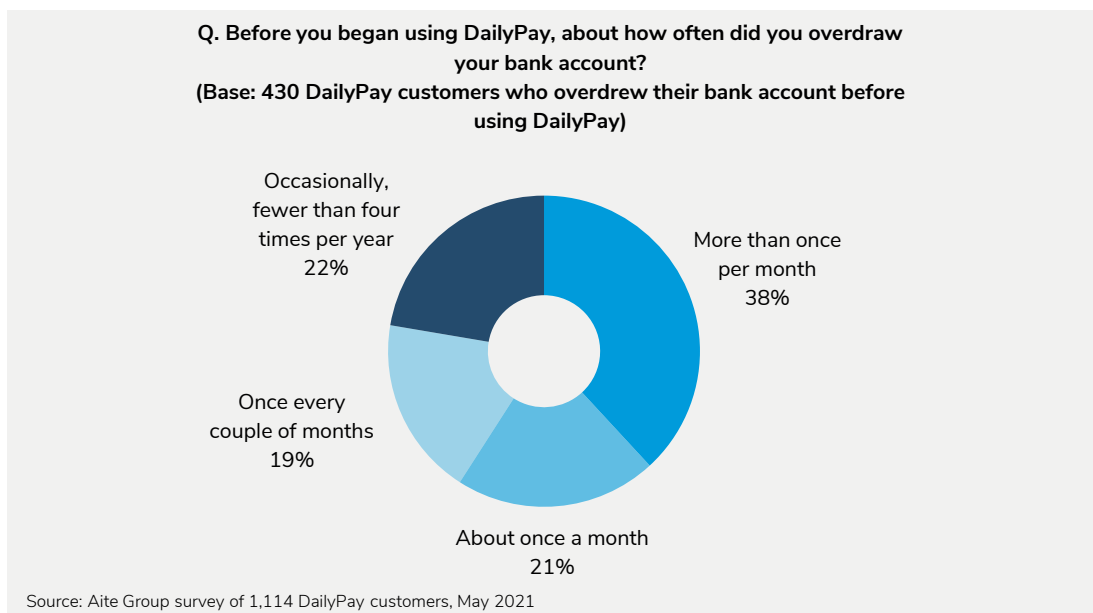


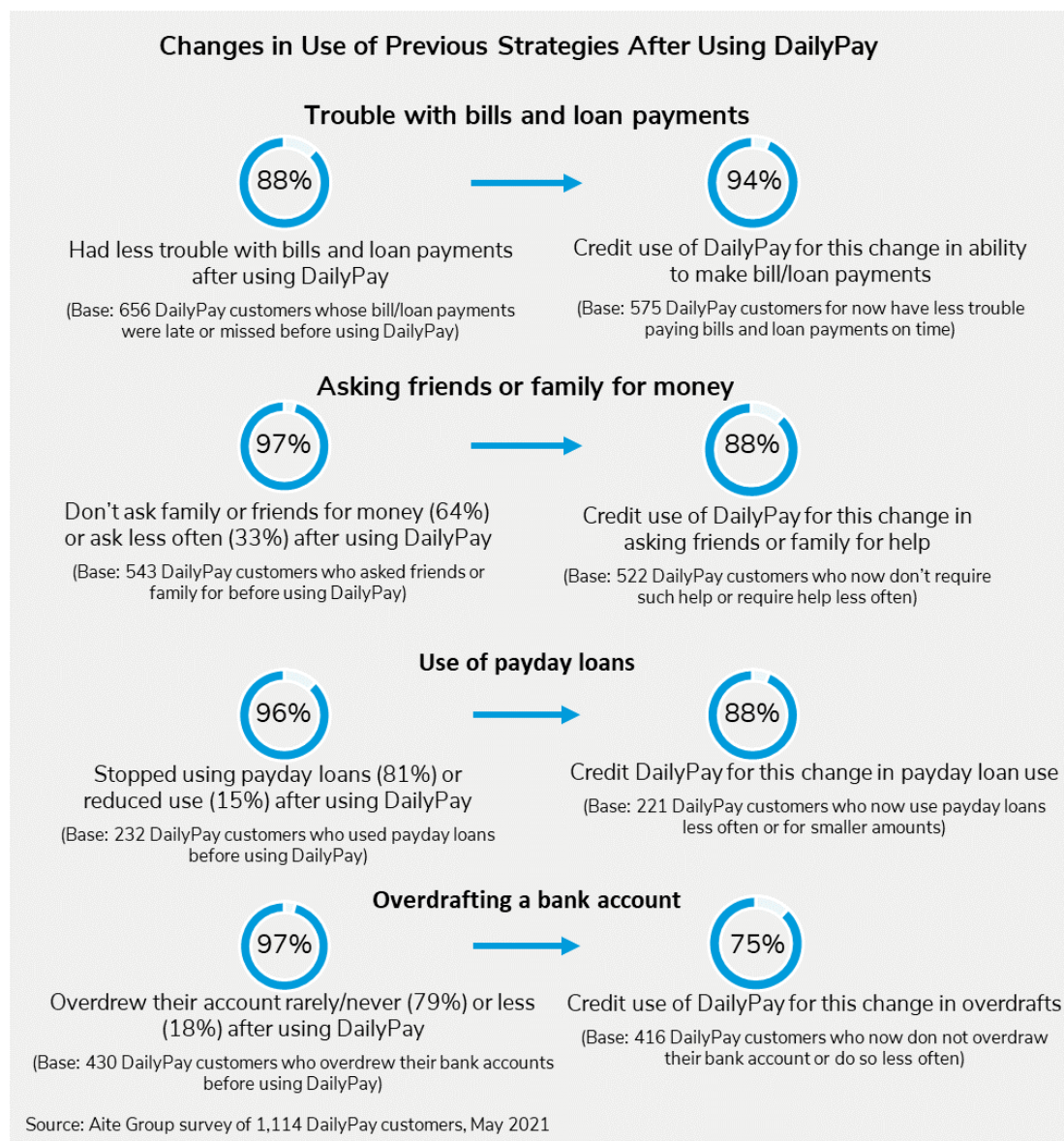
FIGURE 6: PREVIOUS FREQUENCY OF OVERDRAWN BANK ACCOUNT



## Changes After DailyPay

Once respondents started using DailyPay, a large majority changed their use of those previous strategies, either reducing their use or stopping it entirely (Figure 7). When asked whether DailyPay was the catalyst for this changed behavior, most respondents attributed the change to DailyPay rather than another factor, such as a change in income or expenses.

FIGURE 7: CHANGES IN USE OF PREVIOUS STRATEGIES AFTER USING DAILYPAY

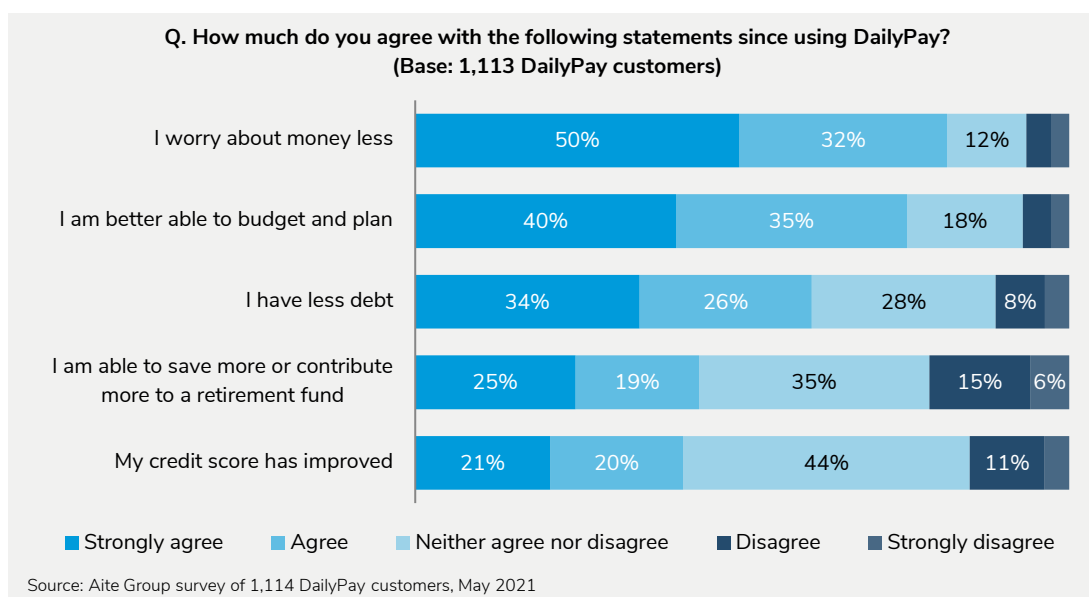


## PERCEIVED CHANGES TO FINANCIAL CONDITION

Given the substitution that many survey respondents made away from costlier alternatives when DailyPay became an option, users were asked to what extent they agreed or disagreed with statements related to their financial well-being. A large majority of users note that they worry about money less and are better able to budget a plan, and over 60% agreed with the statement that they were able to reduce their debt (Figure 8).

Somewhat fewer respondents believed that they were able to save more (either for short-term needs or retirement) or that their credit score improved as a result of using DailyPay. This is likely due to the fact that these changes would be secondary effects of DailyPay use: for example, if a consumer incurred fewer late or overdraft fees and—after becoming more financially stable—was then able to start saving or slowly rebuild their credit through on-time loan payments. Aite-Novarica Group hypothesizes that many consumers switching from costly alternatives to DailyPay first need to stop the immediate financial crisis and then gradually make longer-term investments in their financial well-being.

**FIGURE 8: CHANGES IN FINANCIAL OUTLOOK SINCE USING DAILYPAY**

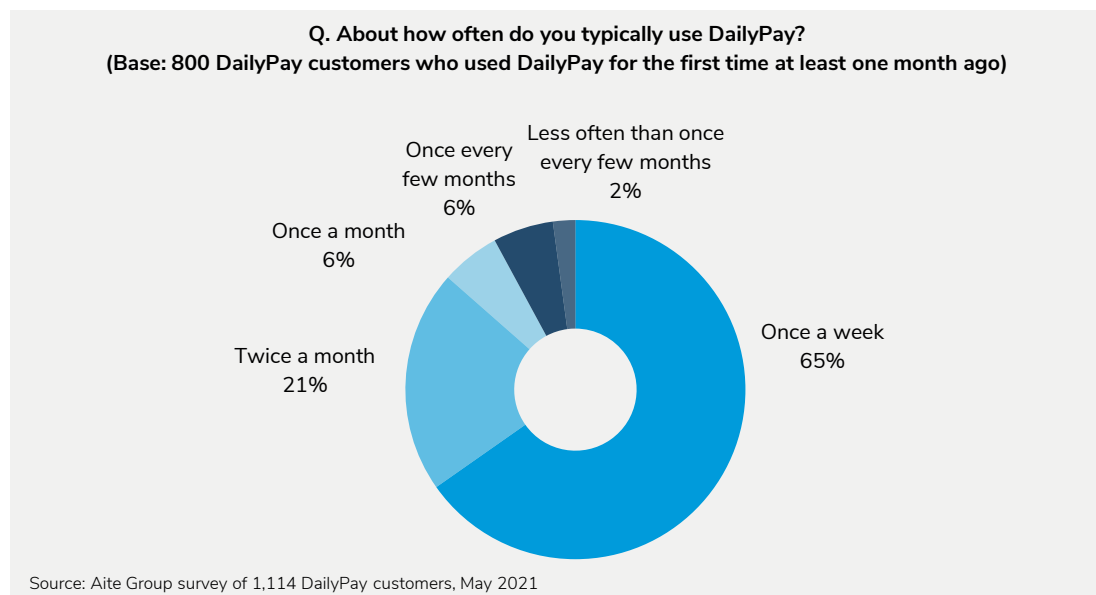


## PERCEPTIONS OF FREQUENT AND INTENSE DAILYPAY USERS

DailyPay customers can use an EWA at any time during their pay period, so long as they have accumulated earned wages. The survey asked respondents about their frequency of use and the intensity of that use, in terms of the share of total net pay they typically access in a given pay period when DailyPay was used.

About two-thirds (65%) of DailyPay users report that they use EWAs weekly, while another 27% note that they use it once or twice per month (Figure 9).

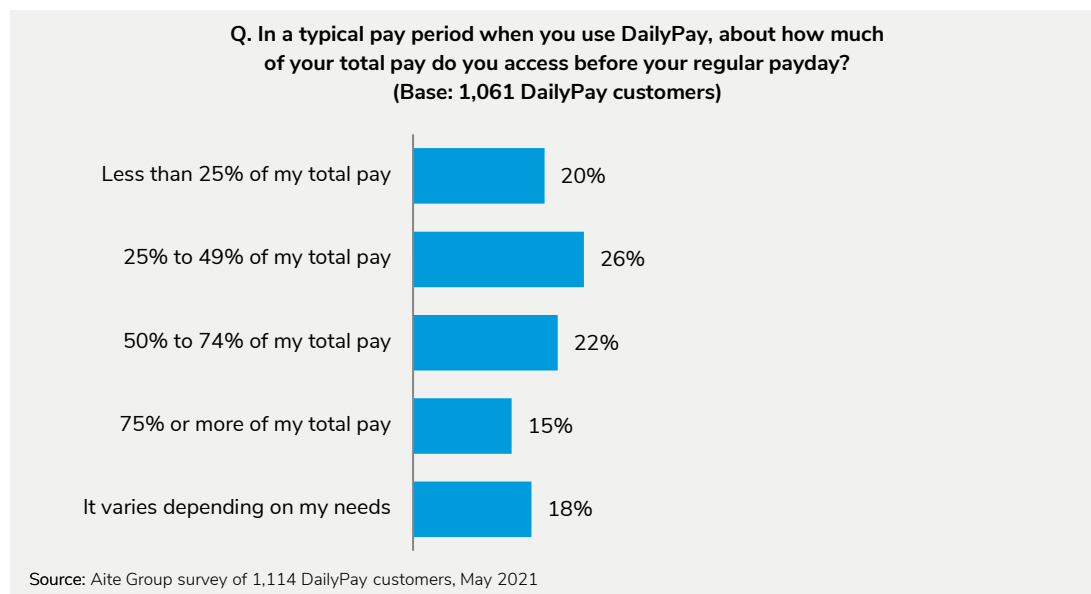
FIGURE 9: FREQUENCY OF DAILYPAY USE



Results were more varied in terms of the total share of net wages accessed, with 46% of respondents stating that they typically access less than half of their total earnings in a given pay period and 37% accessing 50% or more (Figure 10).<sup>4</sup> The remainder of users noted that the intensity of their use varied across pay periods. These users were somewhat more likely to also report that their household income varied each month, which may be one driver of this usage pattern.

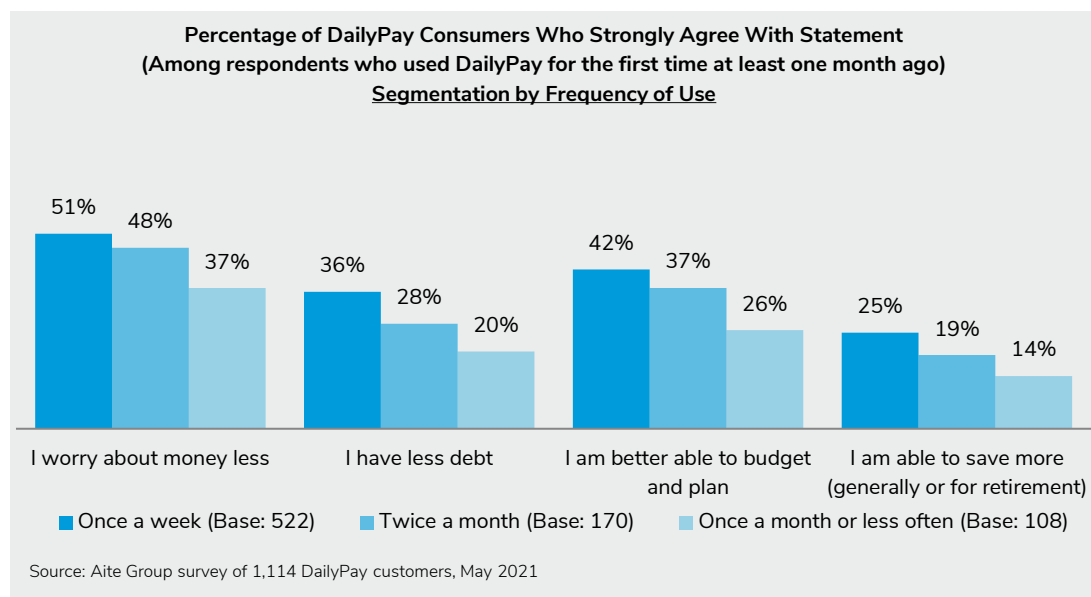
<sup>4</sup> While DailyPay allows users to access up to 100% of their accumulated net wages, some employers have imposed restrictions on the percentage of wages that can be accessed early. Thus, some respondents may not have the option to select the higher intensity categories.

FIGURE 10: INTENSITY OF DAILYPAY USE



Aite-Novarica Group compared the most frequent and intense users of DailyPay to their peers to see if the financial outcomes they report after using DailyPay differed in a statistically significant way. As shown in Figure 11, those who use DailyPay once per week were more likely to strongly agree with several statements regarding their changed financial condition relative to those who use the product no more than once per month. Thus, we do not see evidence that more frequent use is linked to worse outcomes as it relates to user sentiment of their financial condition.

**FIGURE 11: FINANCIAL OUTCOMES REPORTED BY FREQUENT USERS, RELATIVE TO LESS FREQUENT USERS**

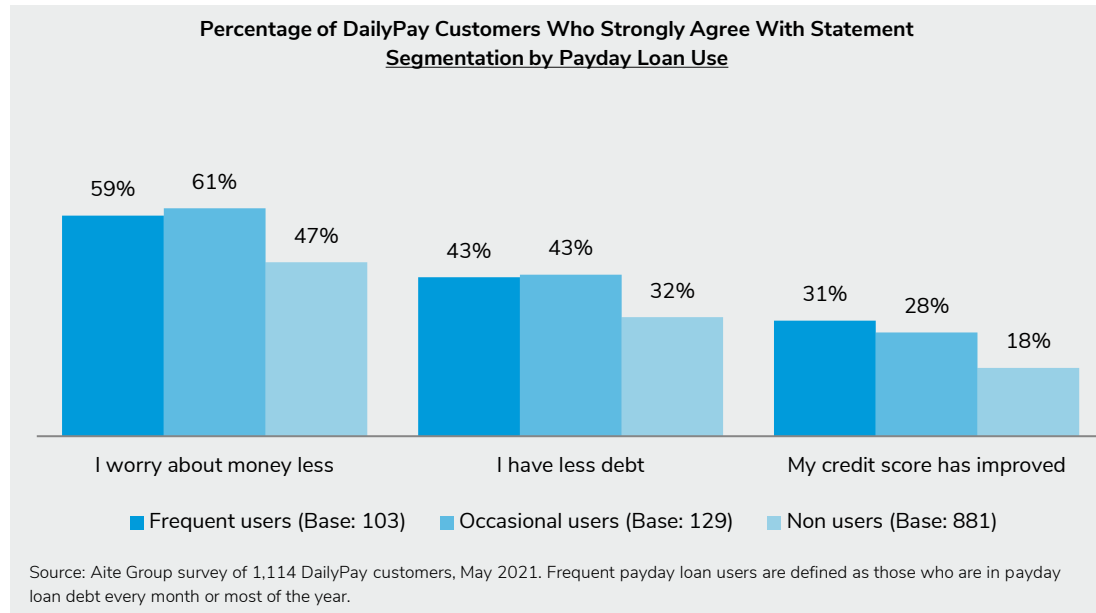


## IMPACT OF DAILYPAY ON PRIOR PAYDAY LOAN BORROWERS AND OVERDRAFTERS

As those consumers who were the most frequent users of payday loans and those who repeatedly overdrew their accounts are arguably among the most financially fragile, Aite-Novarica Group looked at these subsets of respondents to understand their perceived outcomes relative to others who did not use these products as extensively or at all.

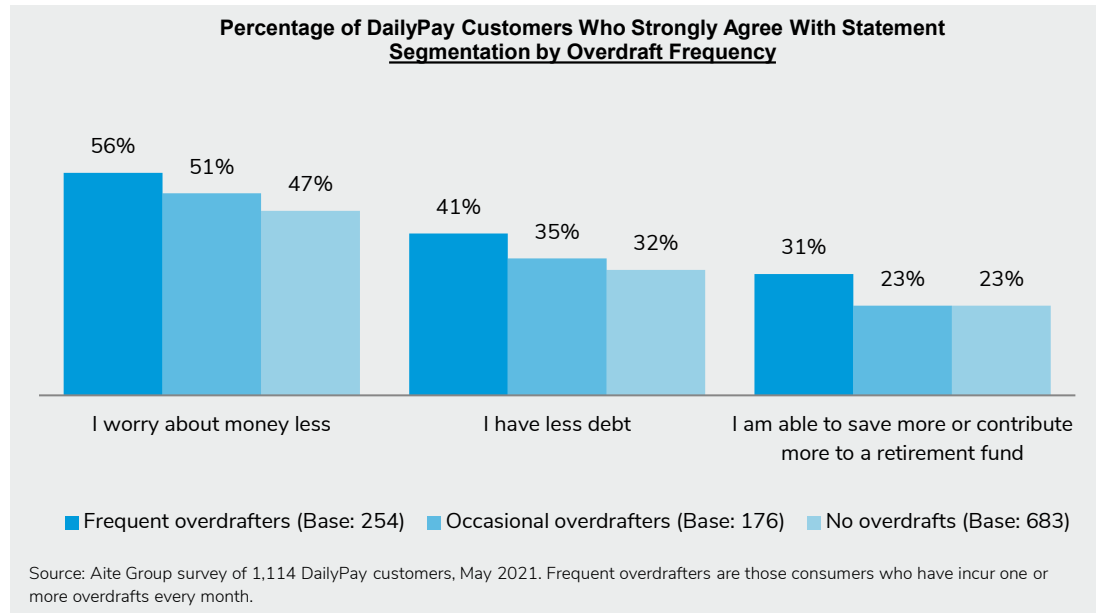
As noted earlier, those consumers who were in payday loan debt either every month or most of the year made up nearly half (45%) of all respondents who noted that they used payday loans before turning to DailyPay. These frequent payday loan users were significantly more likely to strongly agree with statements that they now worry about money less, have less debt, and have an improved credit score than their peers who did not take out payday loans prior to using DailyPay (Figure 12).

FIGURE 12: FINANCIAL OUTCOMES BY PRIOR PAYDAY LOAN BORROWING FREQUENCY



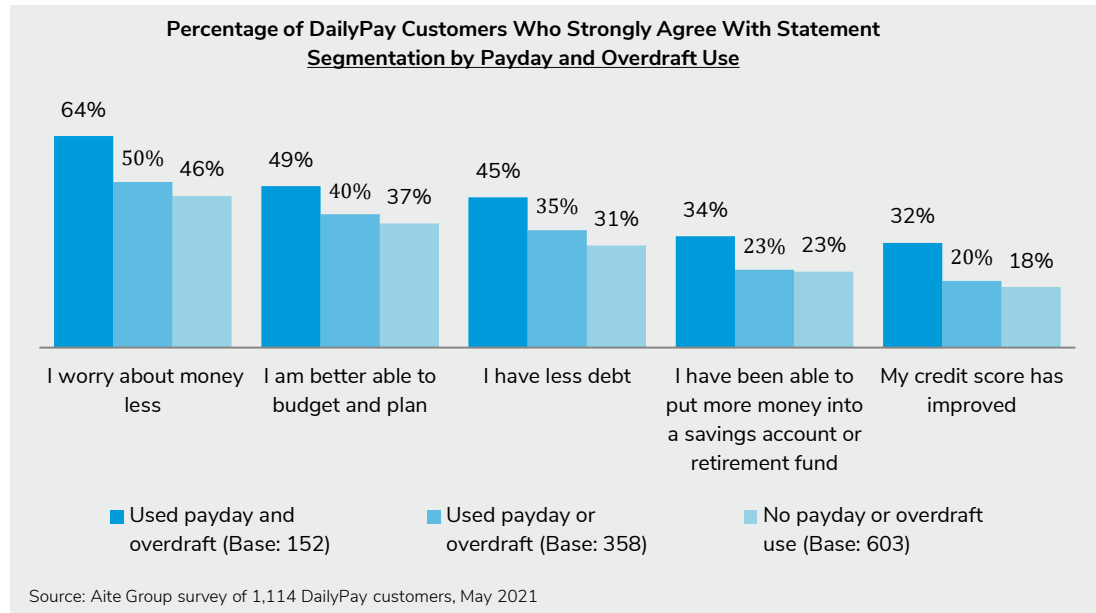
Similarly, Aite-Novarica Group compared those consumers who previously overdrew their bank account at least once per month to those who either overdrew less frequently or did not experience overdrafts. Similar to the experiences of those with prior frequent payday use, the most frequent overdrafters were more likely to strongly agree with statements about improved financial outcomes than those who overdrew less frequently or not at all. (Figure 13).

FIGURE 13: FINANCIAL OUTCOMES BY PRIOR OVERDRAFT FREQUENCY



As noted earlier, 14% of survey respondents used payday loans and also incurred overdraft fees before starting to use DailyPay. These consumers expressed similar sentiments about their improved financial condition, with significantly higher levels of agreement on several dimensions of financial well-being compared to respondents who only used payday loans or incurred overdraft fees (but not both) and those who did not have a prior history of payday loan borrowing or overdraft fees (Figure 14).

FIGURE 14: FINANCIAL OUTCOMES FOR PRIOR USERS OF PAYDAY LOANS AND OVERDRAFT



The findings in Figure 12, Figure 13, and Figure 14 suggest that DailyPay customers who are more financially vulnerable before using EWA perceive the greatest benefits of switching from their previous strategies to DailyPay.

## CONCLUSION

### EWA providers:

- **First, stop the bleeding.** Many employees face precarious financial conditions due to timing mismatches between their income and expenses or a lack of savings. Alternatives to high-cost credit or penalty fees can help them regain control of their finances. EWAs that are structured and priced appropriately can serve as one such alternative.
- **Once stabilized, facilitate customers' continued path toward financial stability.** Once these employees are on a more stable financial footing, they may be receptive to other tools and services from their EWA provider that allow them to save and improve their credit.
- **Continue efforts to understand usage and outcomes.** While the EWA market has grown considerably in recent years, it is still in its early stages. Employers, regulators, consumer advocates, and other stakeholders (in addition to EWA providers themselves) still need to better understand who makes up the EWA customer base, how these products are used, and the impacts on myriad customer segments.

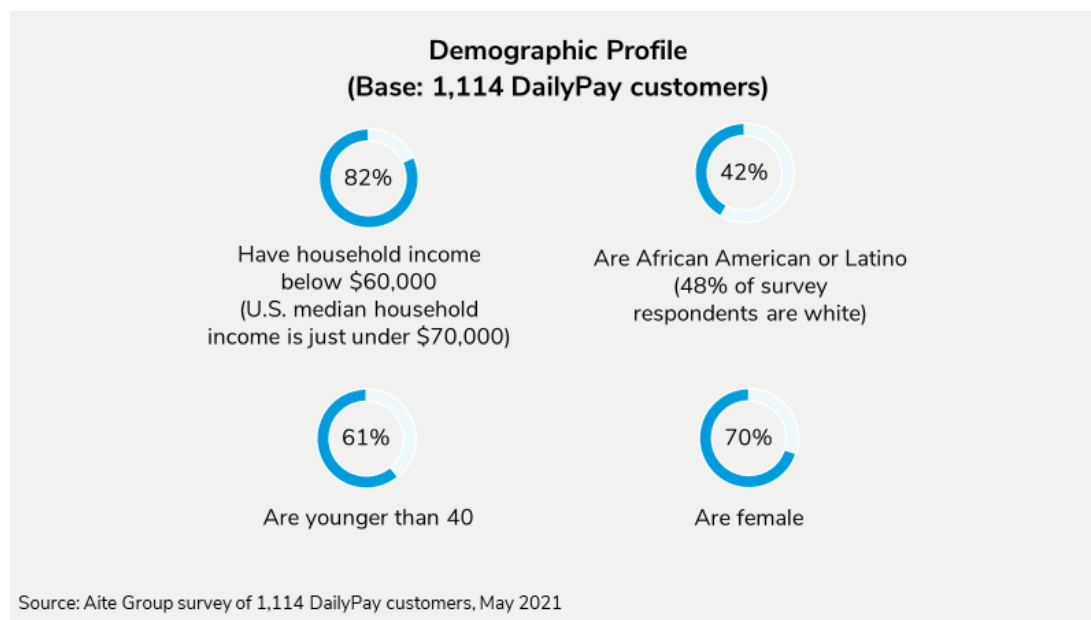
### Other EWA stakeholders:

- **Engage with EWA providers to assist with users' financial wellness journeys.** EWA providers are interested in helping their customers save and build credit. Organizations with expertise in these areas should consider partnerships with EWA providers to distribute these tools to a captive audience.
- **Develop data-driven recommendations for the future of the market.** Since this is still a relatively new product offering, much remains to be learned about customers' needs and outcomes. More research can help inform policy discussions, allowing EWA providers to refine their offerings intelligently.

## APPENDIX: SURVEY RESPONDENT PROFILE

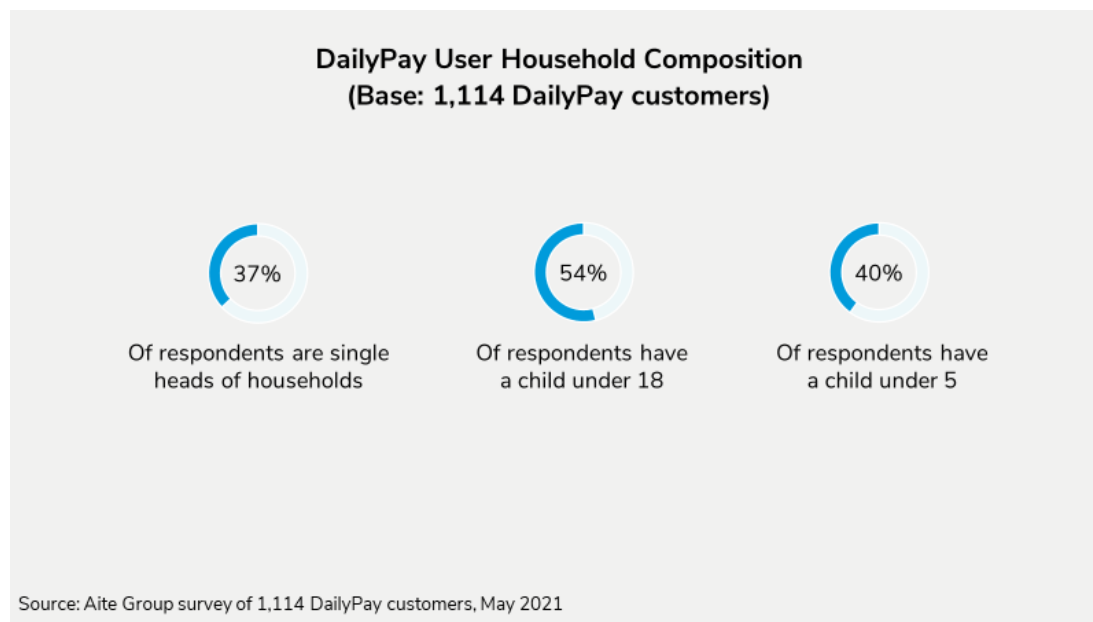
Relative to the general U.S. adult population, DailyPay users who participated in this survey are more likely to be younger, female, non-white, and lower-income (Figure 15). DailyPay notes that this demographic profile is consistent with its overall customer base.

FIGURE 15: DEMOGRAPHIC PROFILE



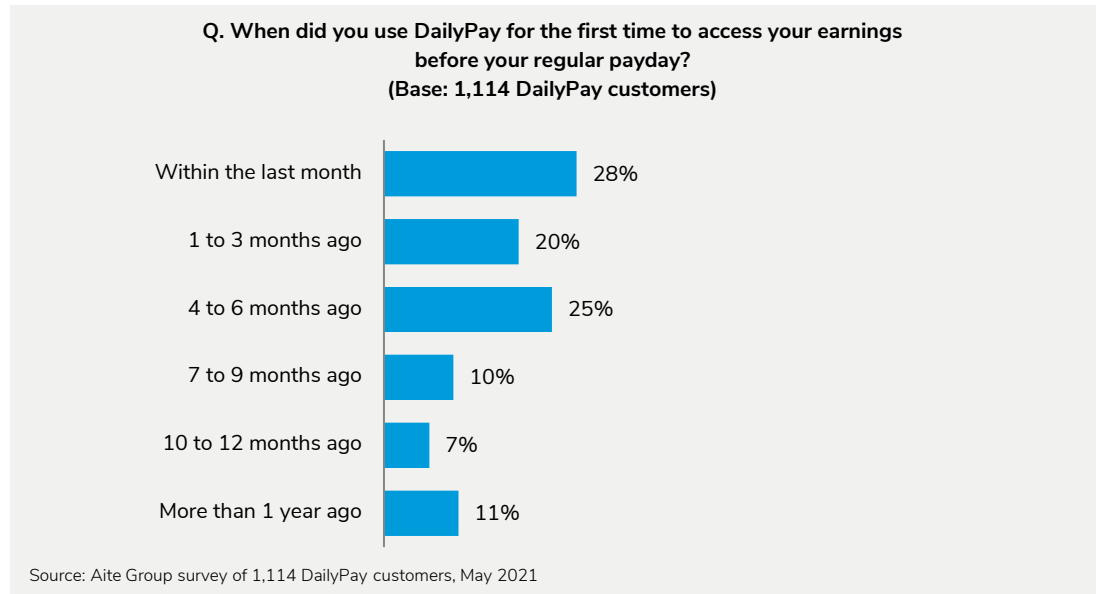
Over half of survey respondents have a child, and at least one child in the household is relatively young. About four in 10 respondents are single heads of households (Figure 16).

FIGURE 16: DAILYPAY USER HOUSEHOLD COMPOSITION



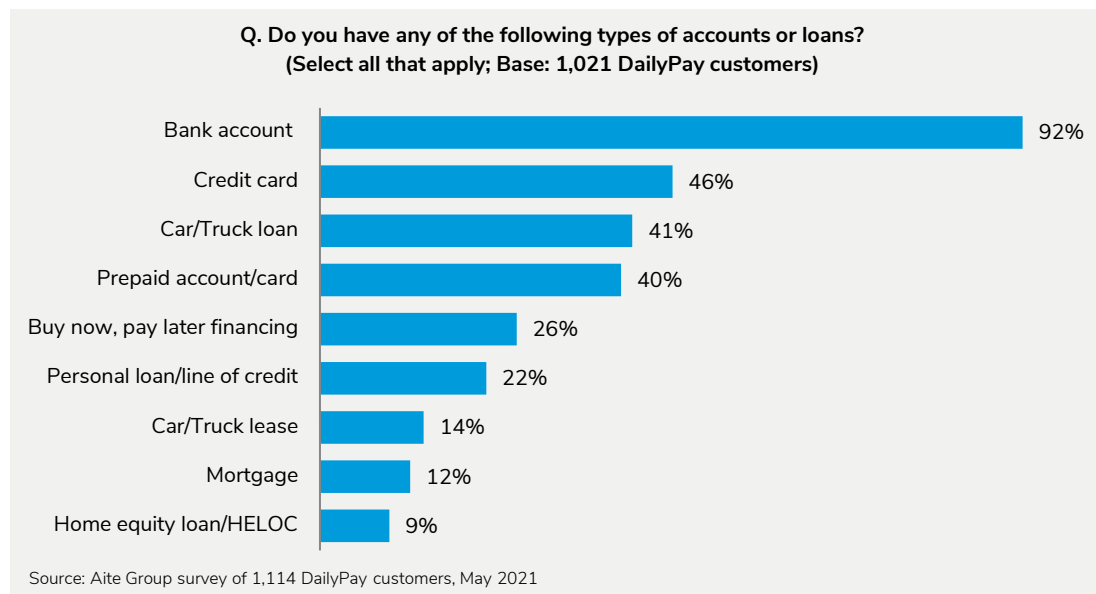
Most of the survey respondents only had access to DailyPay through their employer for a relatively short period of time. For example, nearly half (48%) had used DailyPay for the first time within the last three months (Figure 17). This is likely driven by the fact that employers offering DailyPay generally experience higher employee turnover rates, especially among those employees who are more junior and paid hourly, which seems to align with the respondent base.

FIGURE 17: DISTRIBUTION OF DAILYPAY TENURE



Likely driven by factors such as their income and age, DailyPay survey respondents were less likely to have certain types of financial products, such as mortgages, and more likely to have a prepaid card (Figure 18).

FIGURE 18: TYPES OF FINANCIAL ACCOUNTS AND SERVICES



## RELATED AITE-NOVARICA GROUP RESEARCH

[Making Ends Meet: On-Demand Pay and Employer-Based Loans](#), February 2021

[Uncertainty Is Certain: Consumers' Financial Outlook at Mid-Year 2020](#), July 2020

## ABOUT AITE-NOVARICA GROUP

Aite-Novarica Group is an advisory firm providing mission-critical insights on technology, regulations, strategy, and operations to hundreds of banks, insurers, payments providers, and investment firms as well as the technology and service providers that support them. Comprising former senior technology, strategy, and operations executives as well as experienced researchers and consultants, our experts provide actionable advice to our client base. The quality of our research, insights, and advice is driven by our core values: independence, objectivity, curiosity, and integrity.

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# DailyPay Employee User Experience Research 2023

Research for DailyPay

# Research Overview

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This research was conducted by Arizent and Employee Benefits News on behalf of DailyPay. The primary objective of the research is to understand how employee users of DailyPay use the service and the impact this has on their behavior and relationship with their employer.

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## Methodology

- This research was conducted online during August 2023 among 10,283 employees. This survey was fielded by DailyPay to current users.
- DailyPay managed the distribution of the survey, guaranteeing the confidentiality of respondent identities (and data would only be displayed in aggregate). User data pertaining to age, industry, and app activity was appended for analysis.

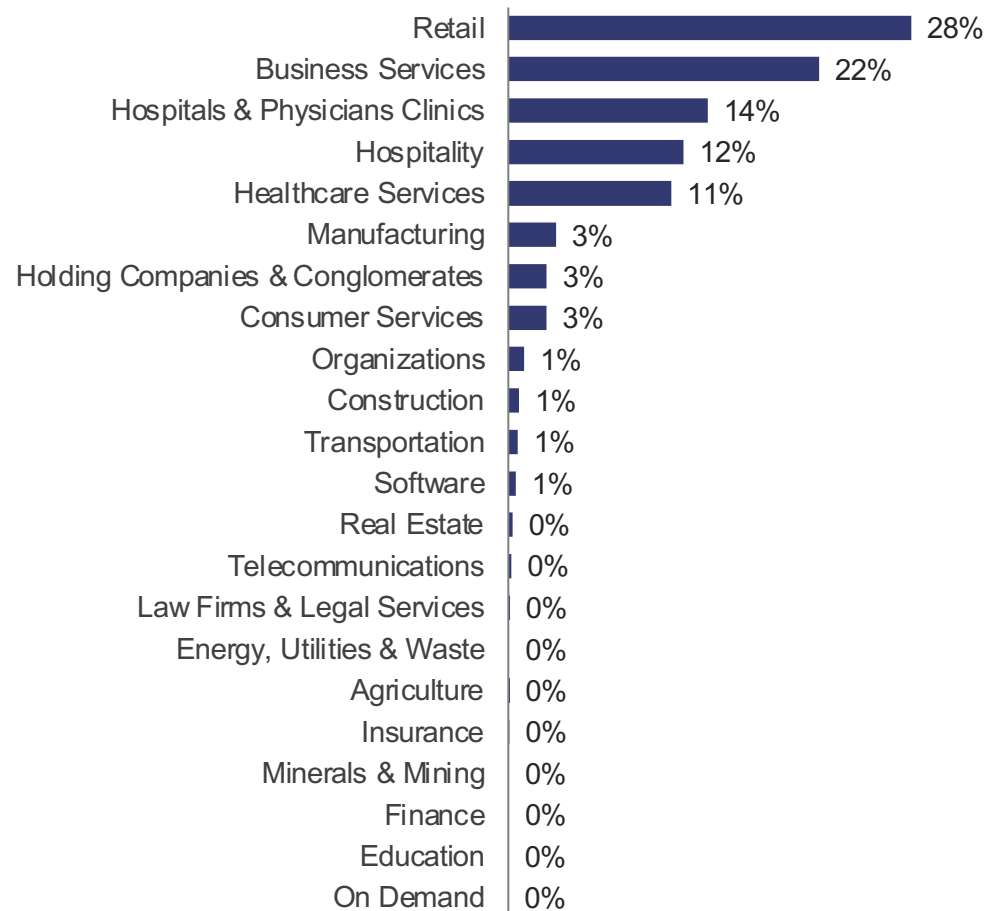
# Industry Profile



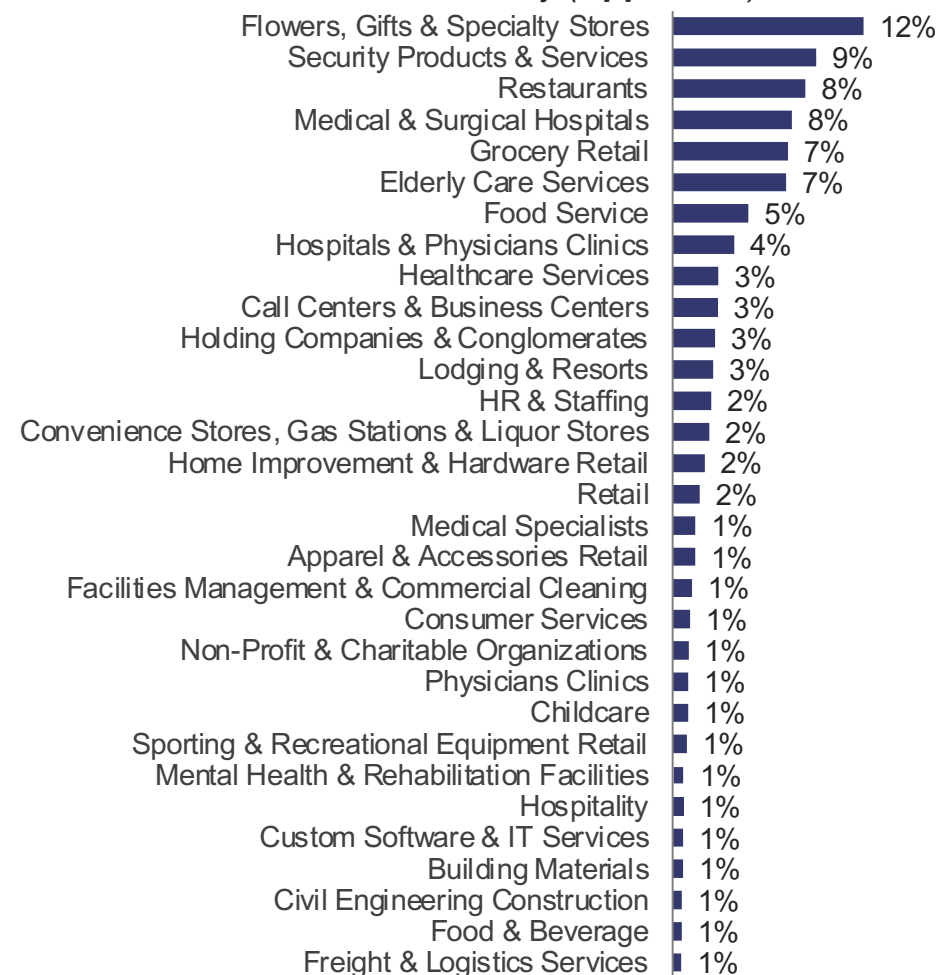
Base: Total Respondents: n=10,283

# Industry Profile

## Industry (Appended)



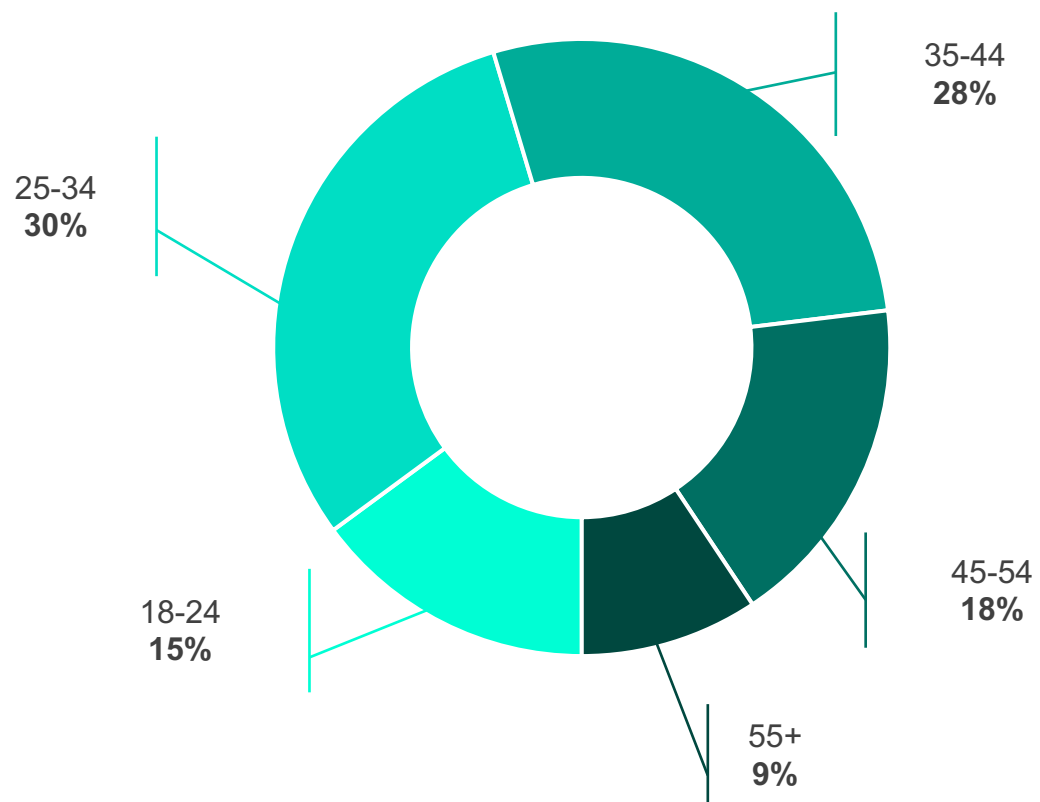
## Sub-Industry (Appended)



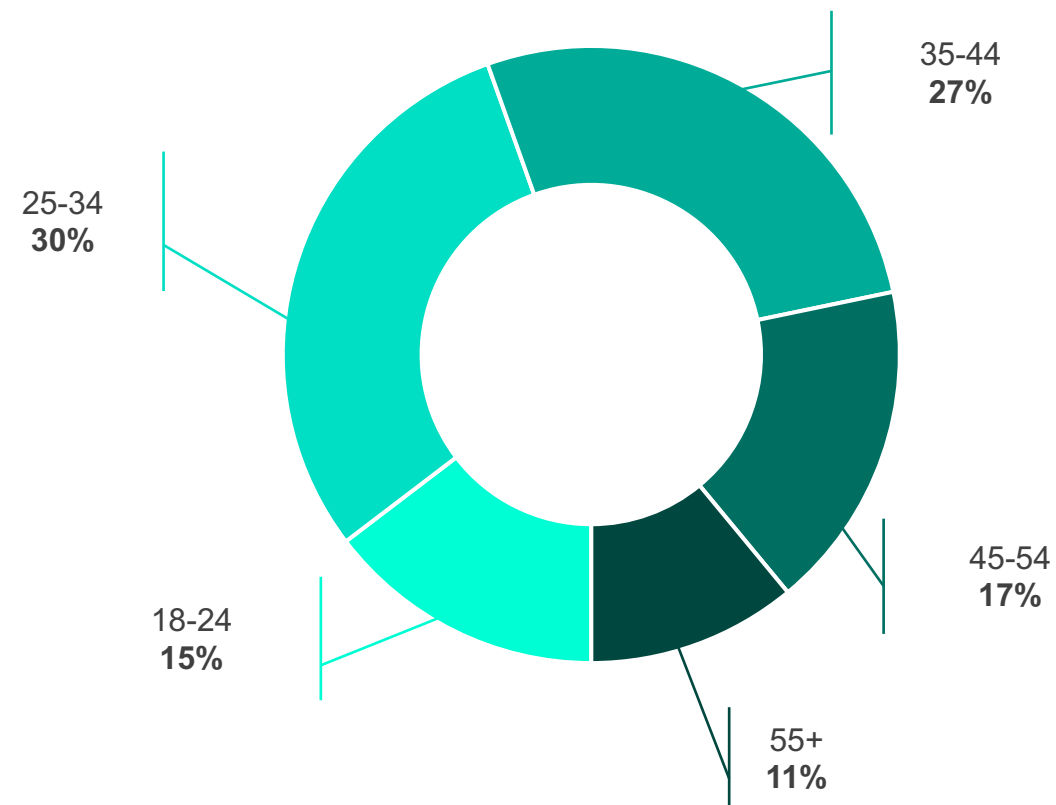
Base: Among respondents with an industry tag:n=9724

# User Profile

Age Group (**Self-reported**)



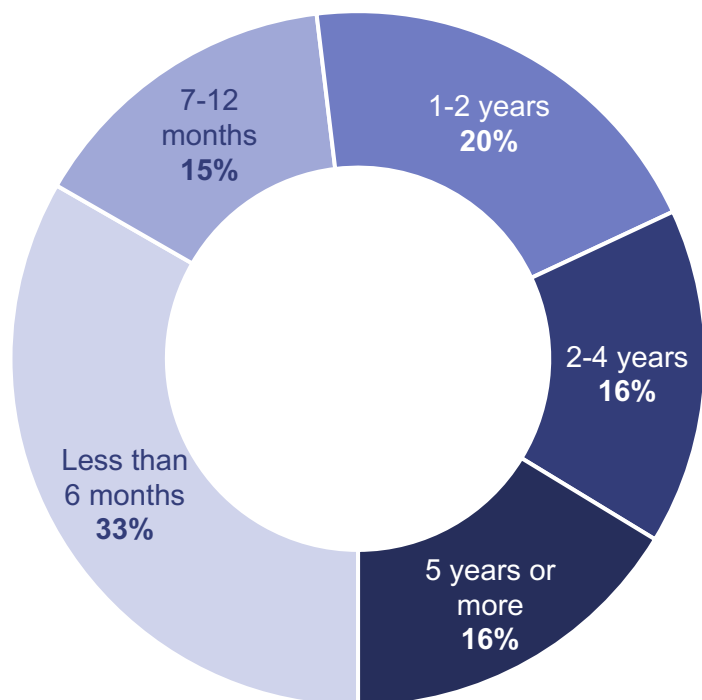
Age Group (**Appended**)



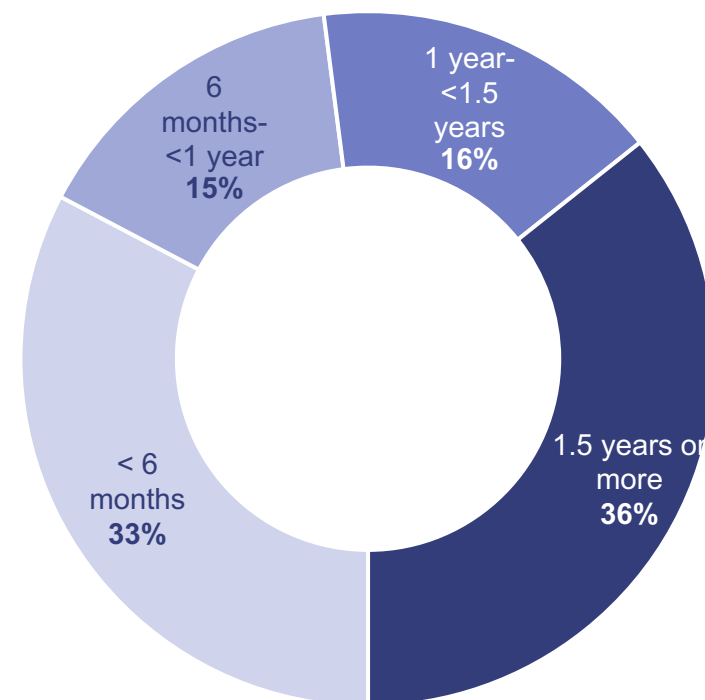
LEFT BASE: Total Respondents: n=10,283; RIGHT BASE: Among respondents with an age tag: n=10141

# User Profile

*Length of Time Using DailyPay (Self-reported)*



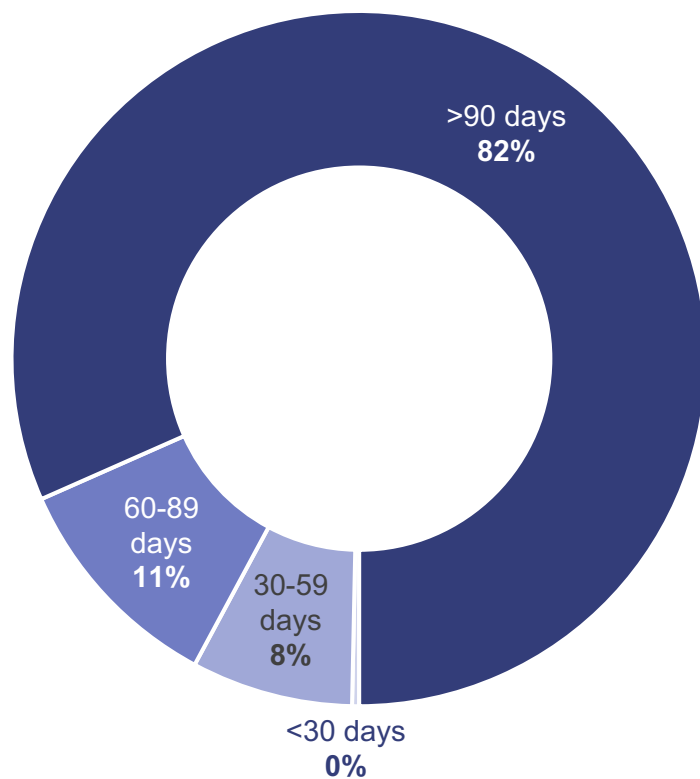
*Length of Time Using DailyPay (Appended)*



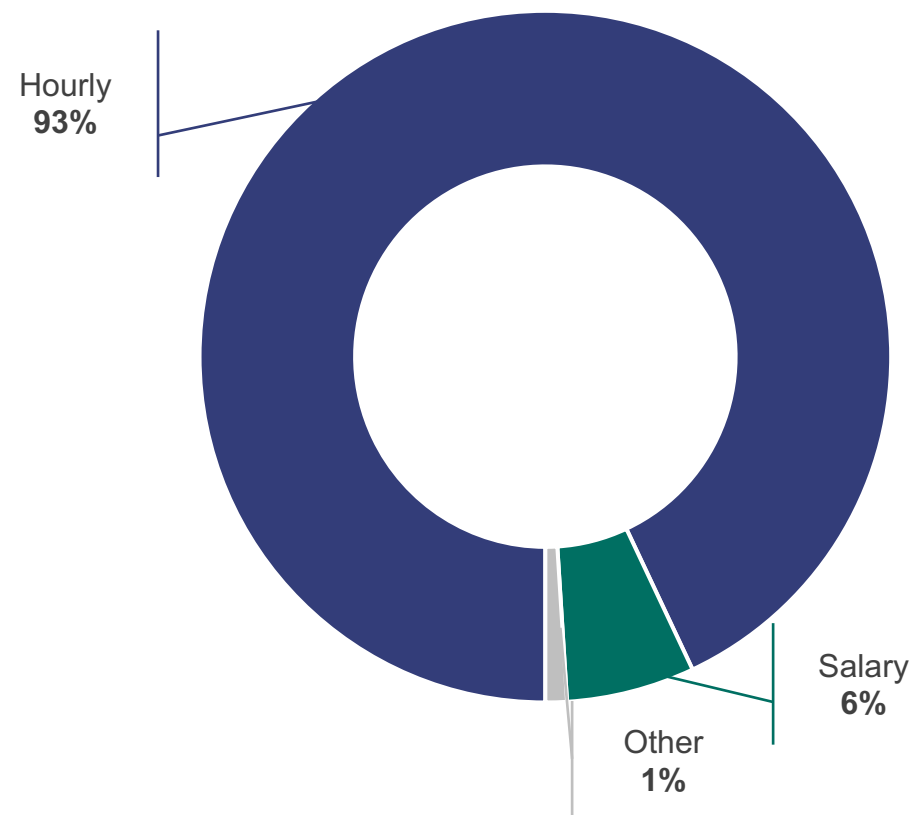
LEFT BASE: Total Respondents: n=10,283; RIGHT BASE: Among respondents with a length of time using DailyPay tag: n=10050

# User Profile

Days Since Enrollment in DailyPay  
(Appended)



Pay Structure



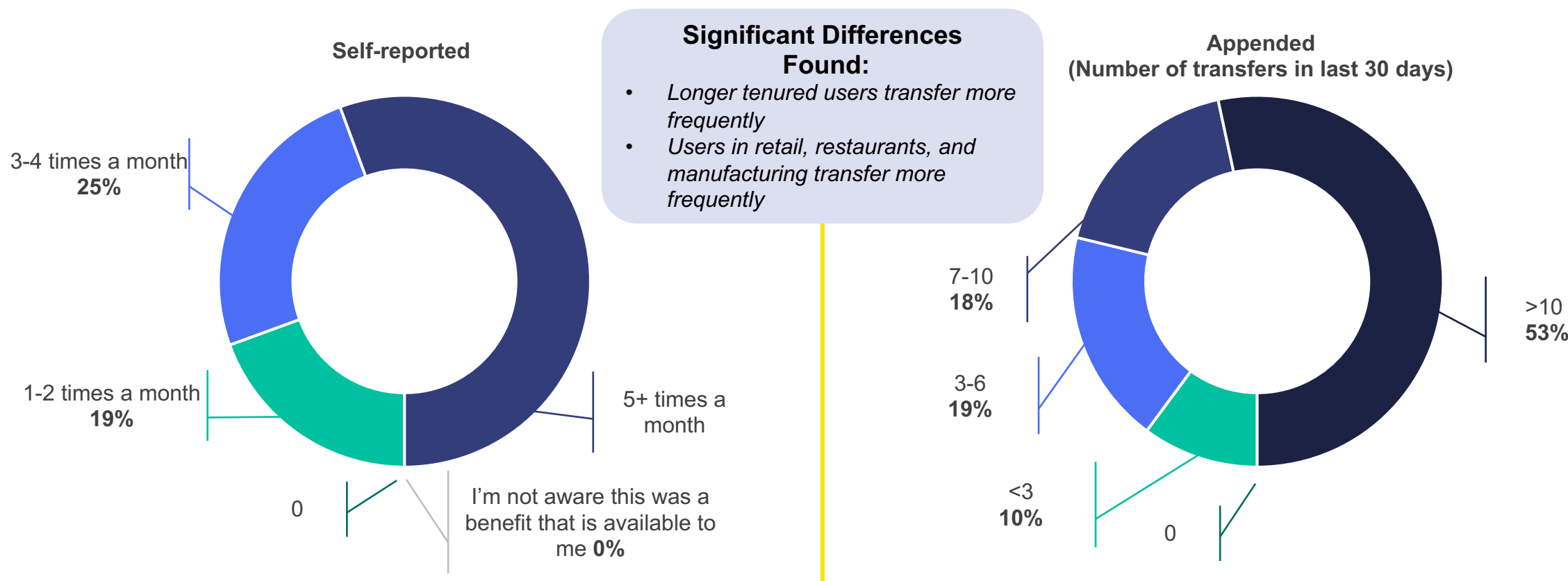
LEFT BASE: Among respondents with a length of time using DailyPay tag: n=10050; RIGHT BASE: Total Respondents: n=10,283

The background features abstract geometric shapes in bright yellow and olive green. A large yellow rectangle is positioned in the lower half, with a smaller yellow rectangle overlapping its top right corner. To the left, an olive green shape extends from the edge, partially overlapping the yellow rectangle. The text 'Detailed Findings' is centered within the yellow rectangle.

## **Detailed Findings**

# More than half of respondents transfer money from DailyPay to their account or paycard at least five times per month

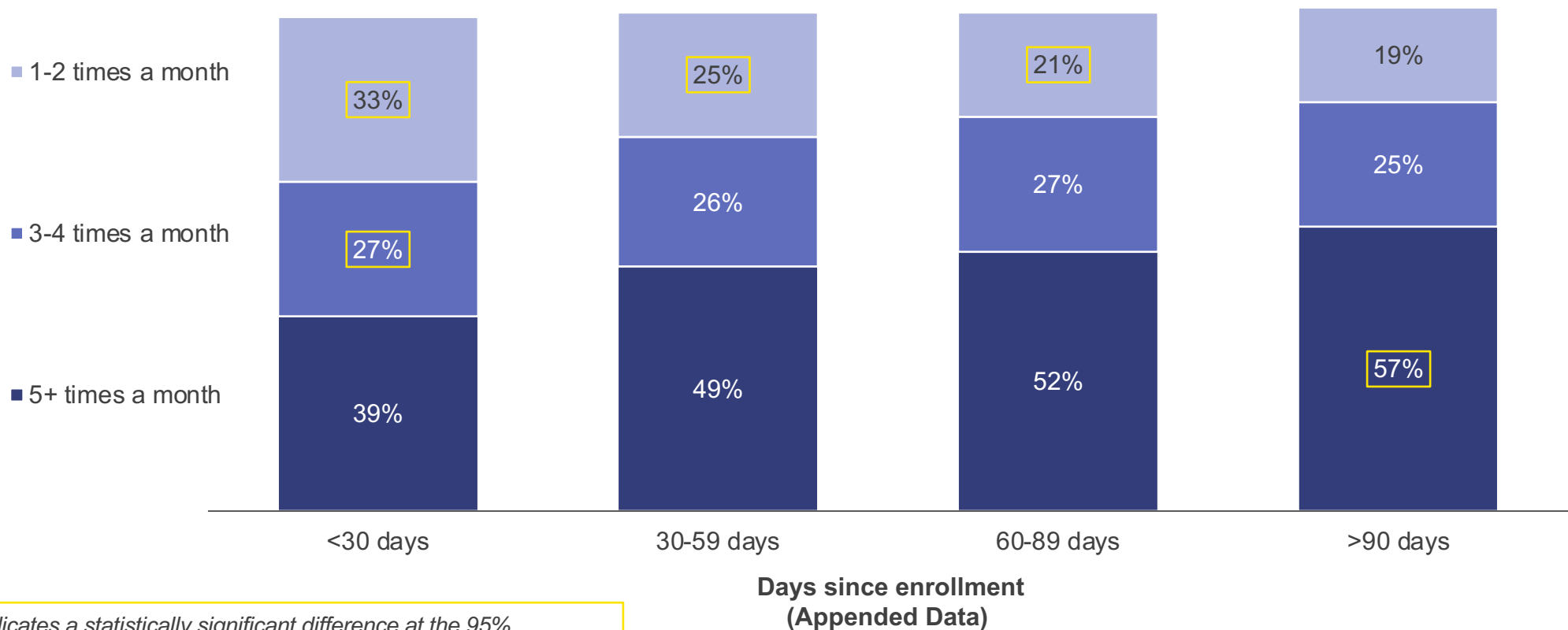
*Roughly how many times in a typical month do you transfer money from your DailyPay account (i.e. transfer money to your bank account or paycard before payday)?*



Base: Total Respondents: n=10,283

# Users who have been enrolled in DailyPay for over 90 days are more likely to be transferring funds 5+ times per month

*Roughly how many times in a typical month do you transfer money from your DailyPay account (i.e. transfer money to your bank account or paycard before payday)?*

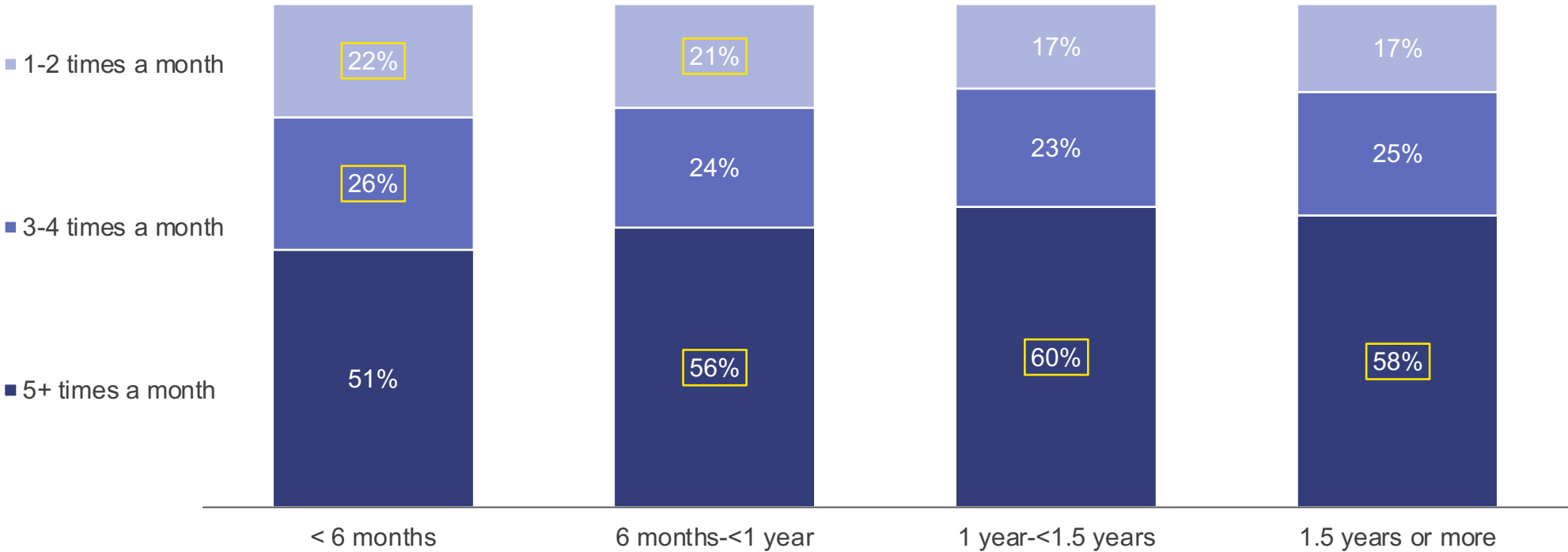


Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: By Days since enrollment in DailyPay: <30 days: n=33, 30-59 days: n=756, 60-89 days: n=1058, >90 days: n=8203

# Users of 6 months or longer are more likely to make transfers 5+ times per month

*Roughly how many times in a typical month do you transfer money from your DailyPay account (i.e. transfer money to your bank account or paycard before payday)?*



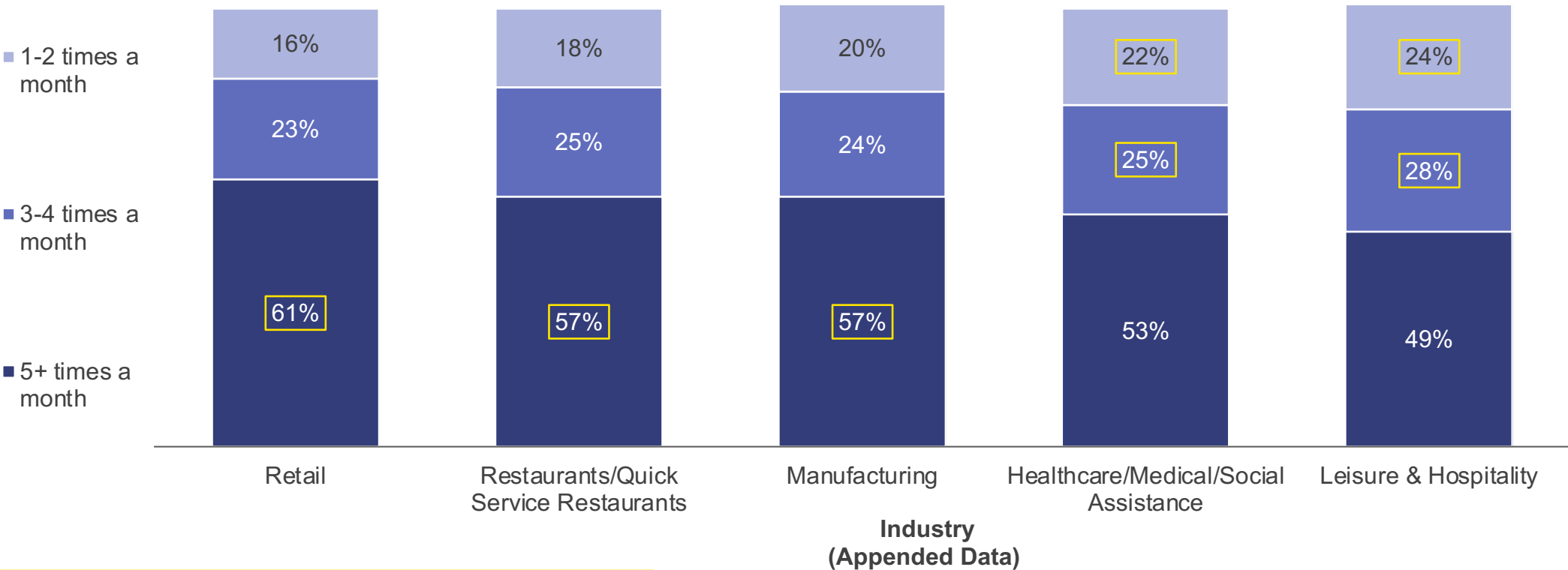
Length of time enrolled  
(Appended Data)

Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: By length of time enrolled: < 6 months: n=3288, 6 months-<1 year: n=1532, 1 year-<1.5 years: n=1643, 1.5 years or more

# Users in retail, restaurants, and manufacturing are more likely to make 5+ transfers per month

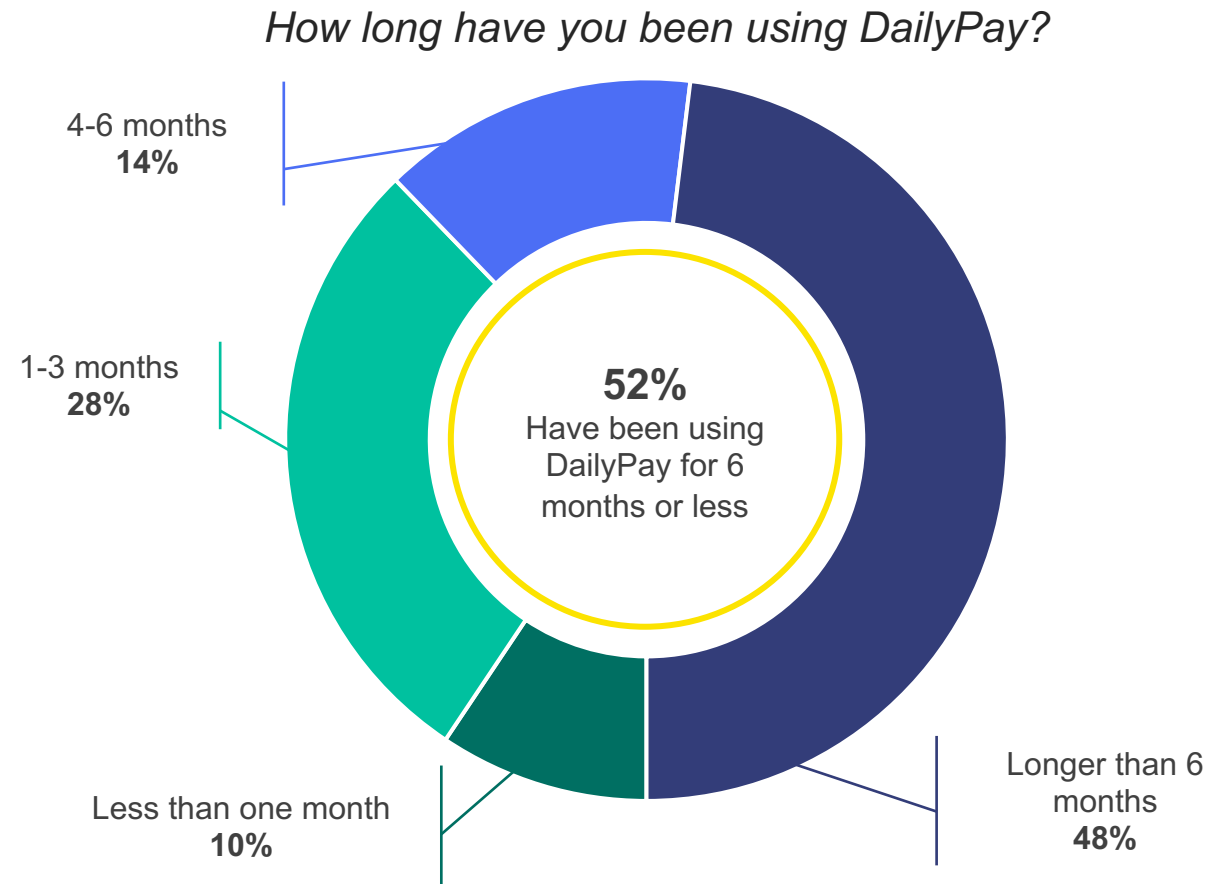
*Roughly how many times in a typical month do you transfer money from your DailyPay account (i.e. transfer money to your bank account or paycard before payday)?*



Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: Among users who fall into one of these key target industries: Retail: n=2731, Restaurants/Quick Service Restaurants: n=821, Leisure & Hospitality: n=367, Healthcare/Medical/Social Assistance: n=2456, Manufacturing: n=322

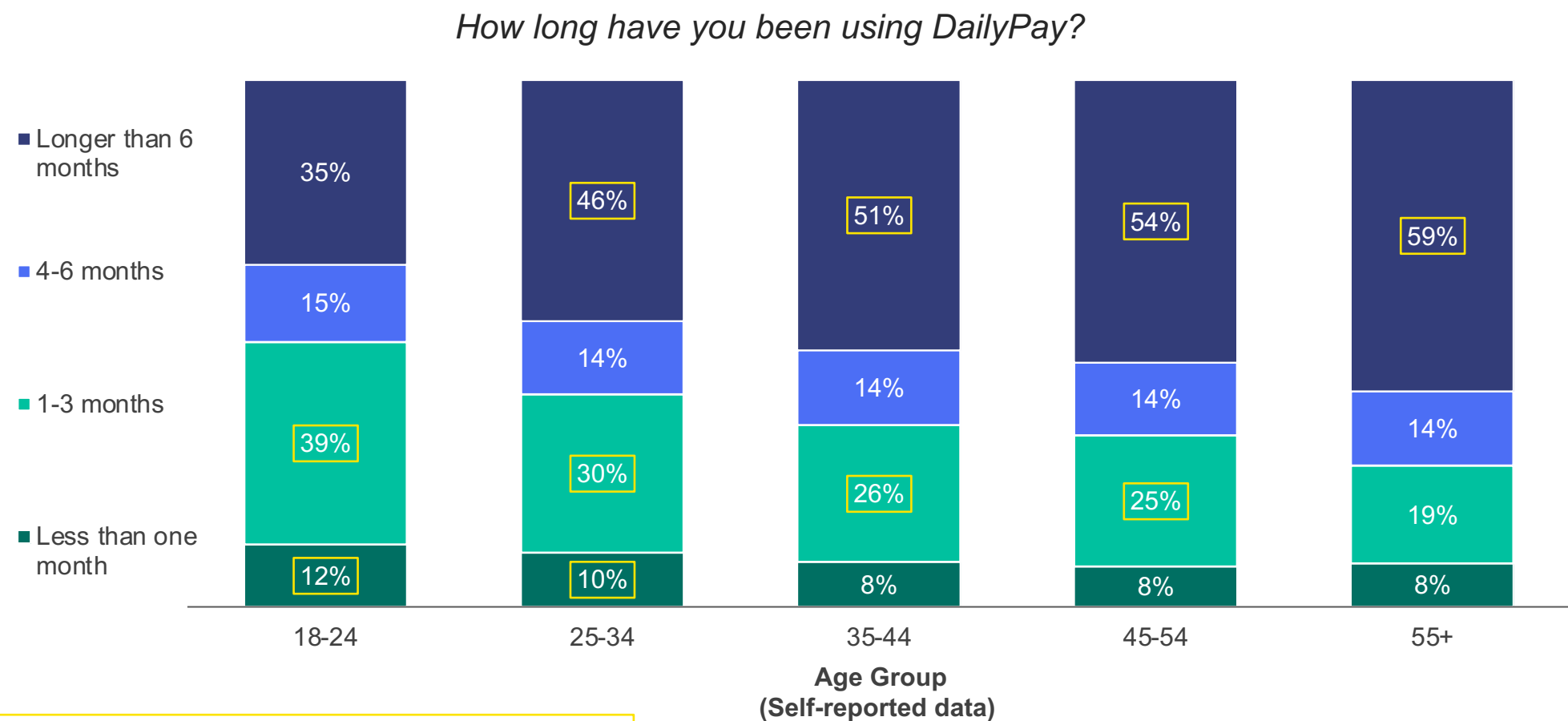
# About half are new users, having used DailyPay for six months or less



## Significant Differences Found:

- Older users have been using DailyPay for longer
- Leisure & hospitality, manufacturing, and restaurant workers tend to be newer users

# Older users have been using the DailyPay app for longer

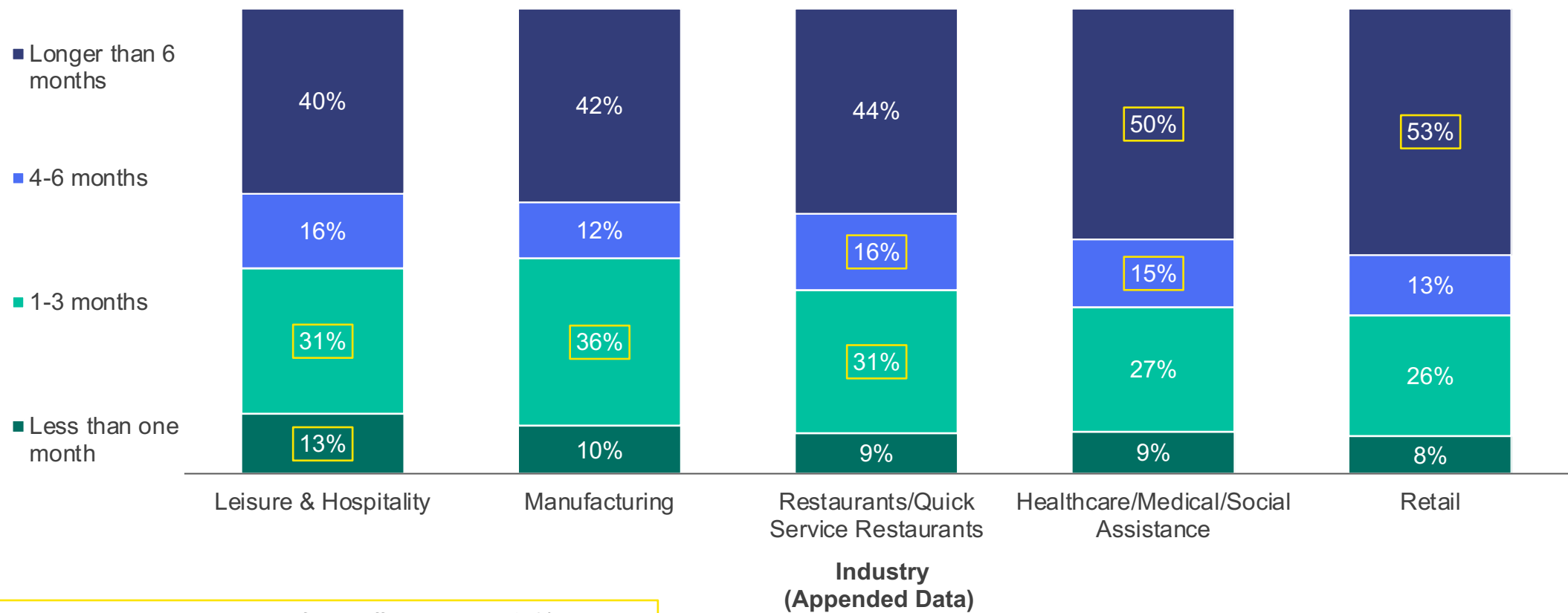


Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: By Age group: 18-24: n=1485, 25-34: n=3032, 35-44: n=2758, 45-54: n=1751, 55+: n=1115

# Most leisure & hospitality, manufacturing, and restaurant workers have been using DailyPay for 6 months or less

How long have you been using DailyPay?

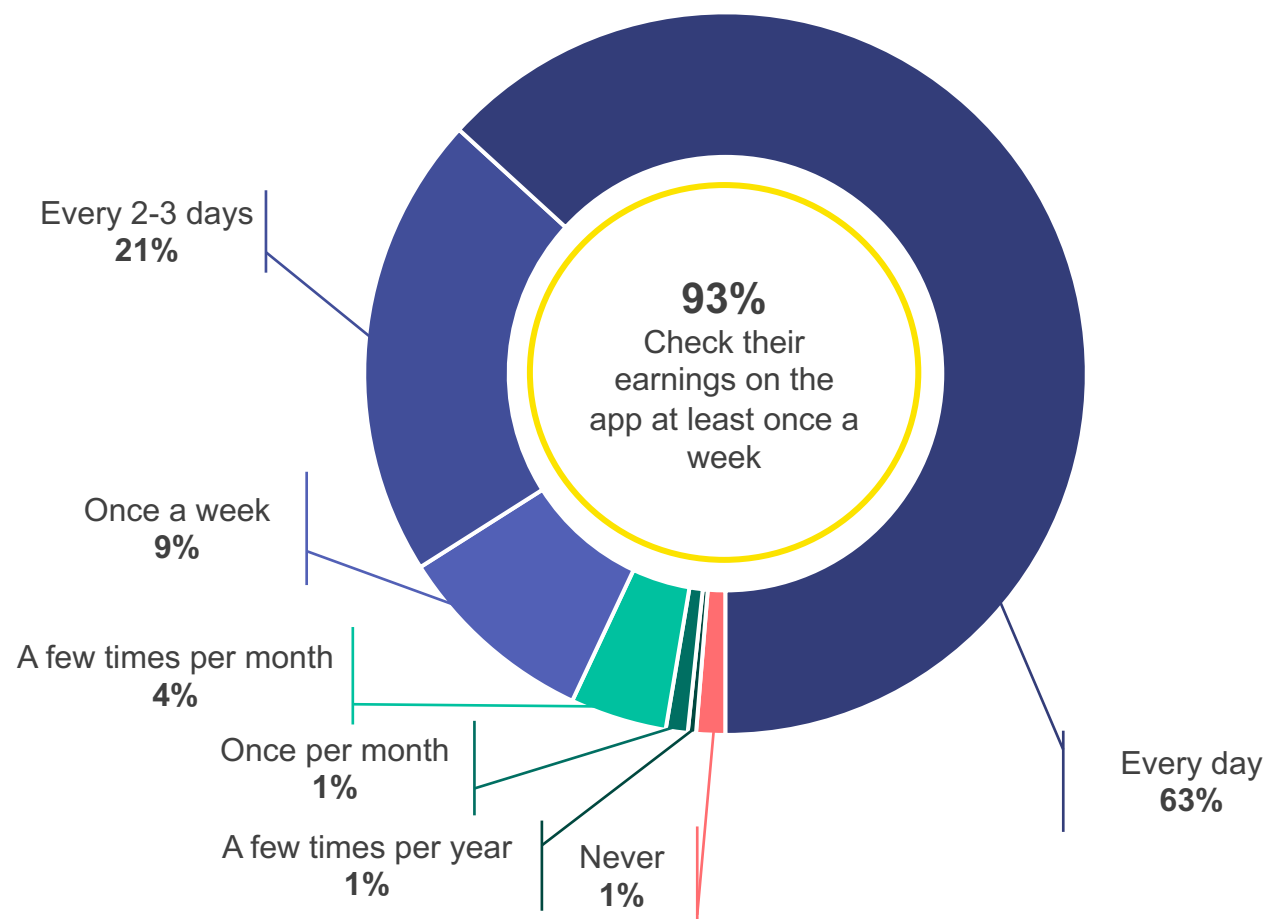


Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: Among users who fall into one of these key target industries: Retail: n=2731, Restaurants/Quick Service Restaurants: n=821, Leisure & Hospitality: n=367, Healthcare/Medical/Social Assistance: n=2456, Manufacturing: n=322

# 6-in-10 users track their earnings daily

*About how often do you check the DailyPay app to track your earnings?*



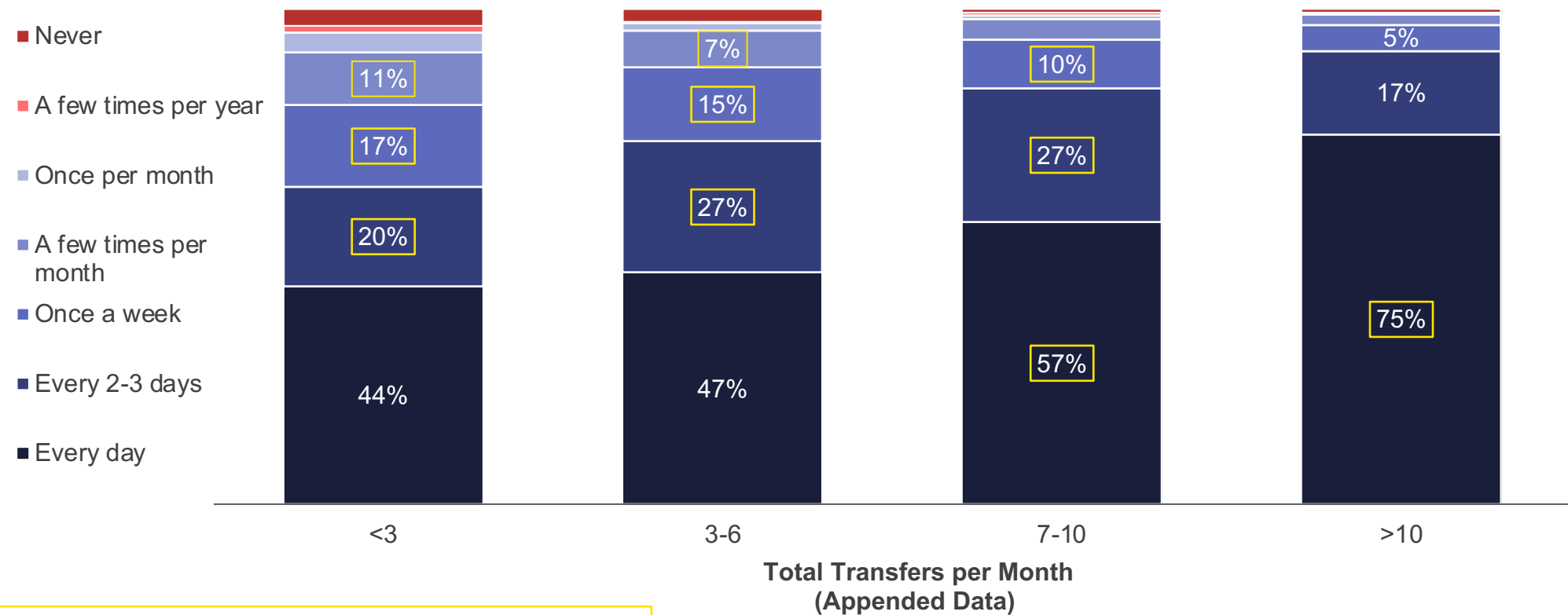
## Significant Differences Found:

- Users who transfer more often also check their earnings more often
- Users under 55 are more likely to track their earnings with DailyPay
- Non-salaried users check their earnings more often
- Restaurant and retail workers check their earnings more often

Base: Total Respondents: n=10,283

# Users who make more than 6 transfers per month are more likely to check the DailyPay app daily

About how often do you check the DailyPay app to track your earnings?



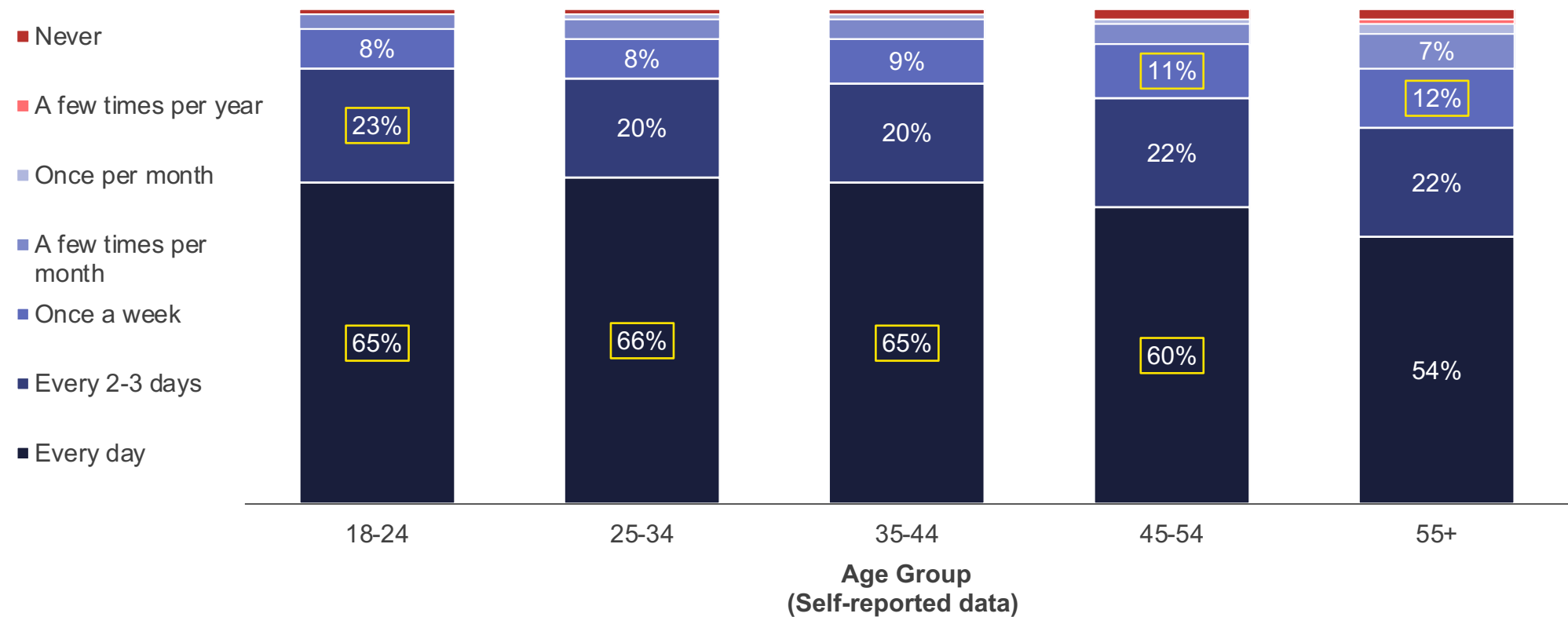
Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Labels not shown for values less than 5%

Base: By Total transfers per month: <3: n=1041, 3-6: n=1920, 7-10: n=1833, >10: n=5489

# Users under 55 are more likely to check their DailyPay app daily to track their earnings

About how often do you check the DailyPay app to track your earnings?



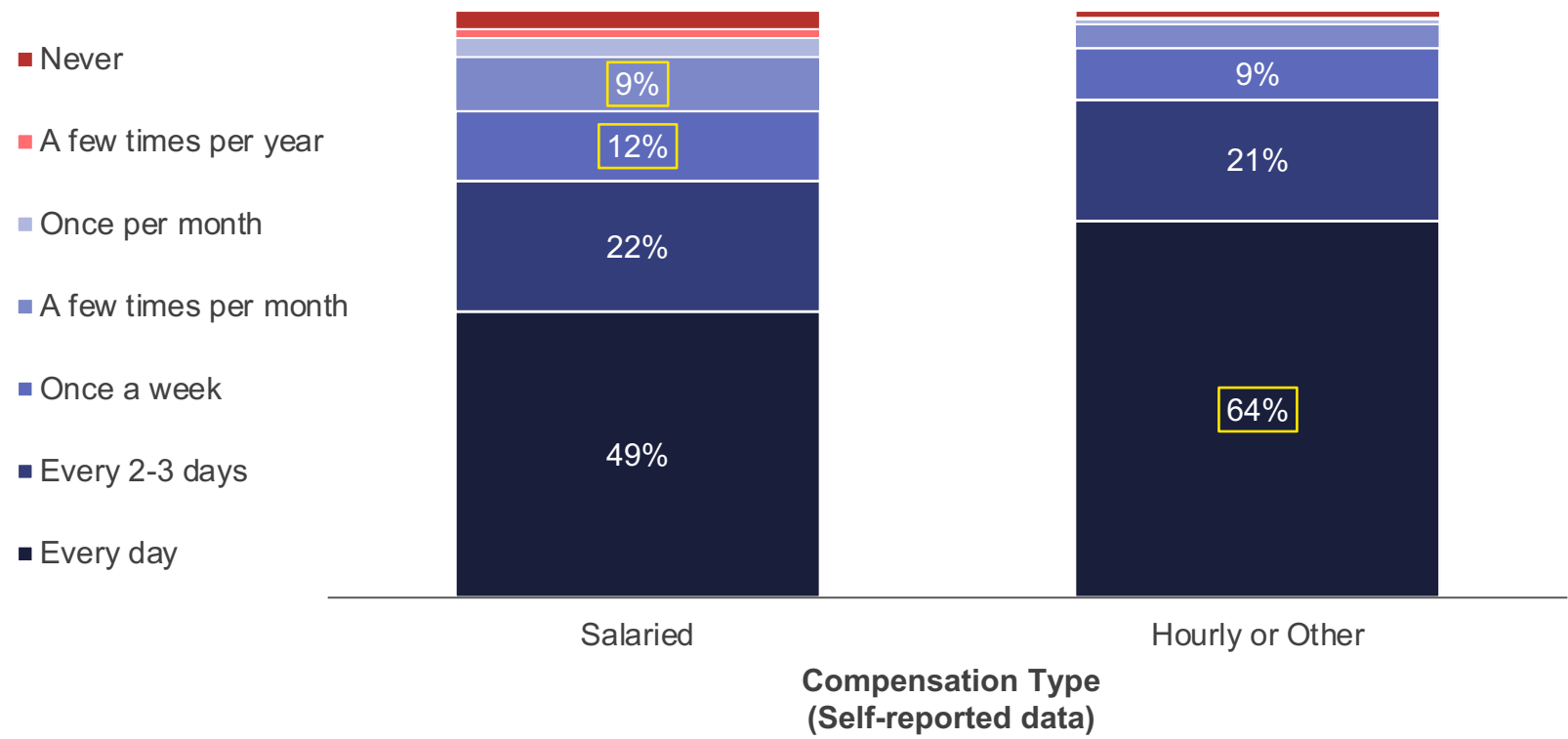
Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Labels not shown for values less than 5%

Base: By Age group: 18-24: n=1485, 25-34: n=3032, 35-44: n=2758, 45-54: n=1751, 55+: n=1115

# Non-salaried users check their DailyPay app to track earnings more often than salaried users

About how often do you check the DailyPay app to track your earnings?



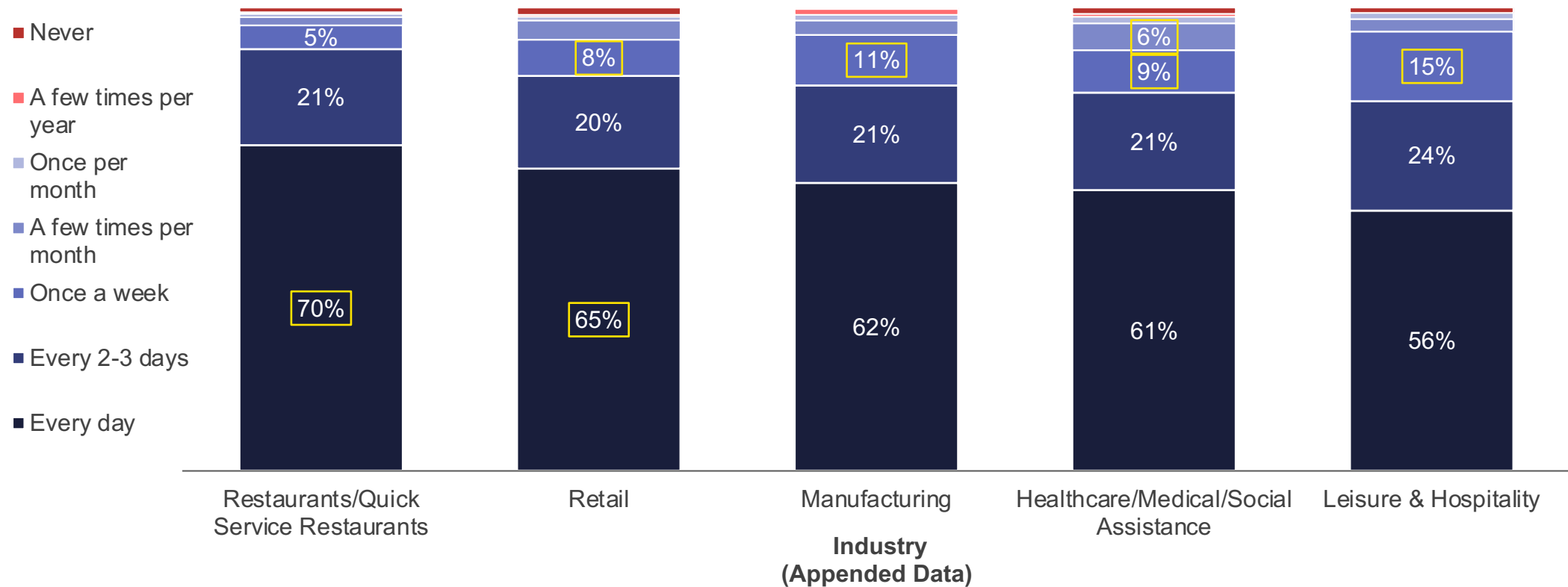
Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Labels not shown for values less than 5%

Base: Among all respondents by compensation type: Salaried: n=609, Hourly or Other: n=9674

# Restaurant and retail workers are more likely than others to check their DailyPay app every day to track their earnings

About how often do you check the DailyPay app to track your earnings?



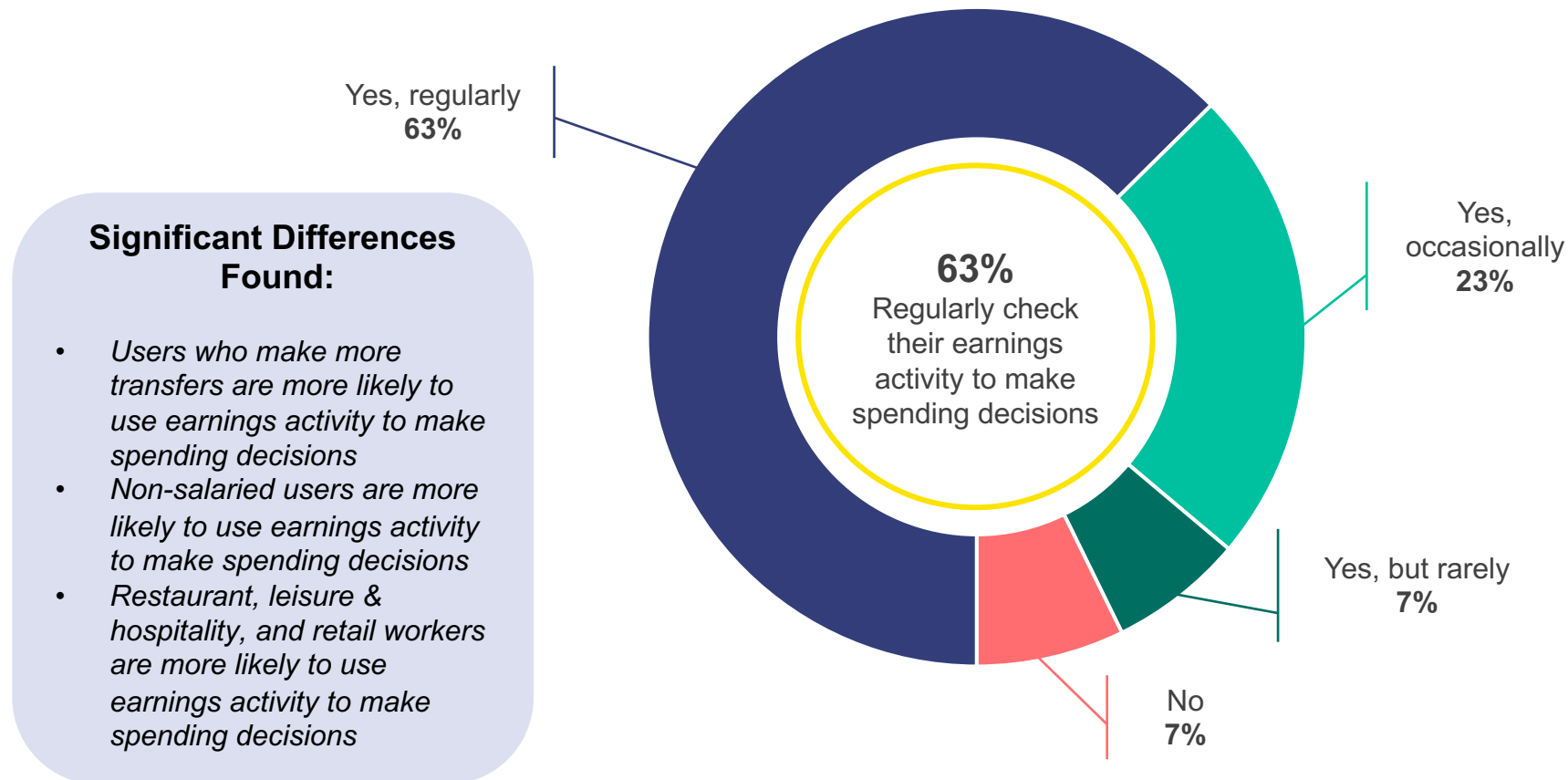
Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Labels not shown for values less than 5%

Base: Among users who fall into one of these key target industries: Retail: n=2731, Restaurants/Quick Service Restaurants: n=821, Leisure & Hospitality: n=367, Healthcare/Medical/Social Assistance: n=2456, Manufacturing: n=322

# 9-in-10 users check their earnings activity to make spending and financial decisions

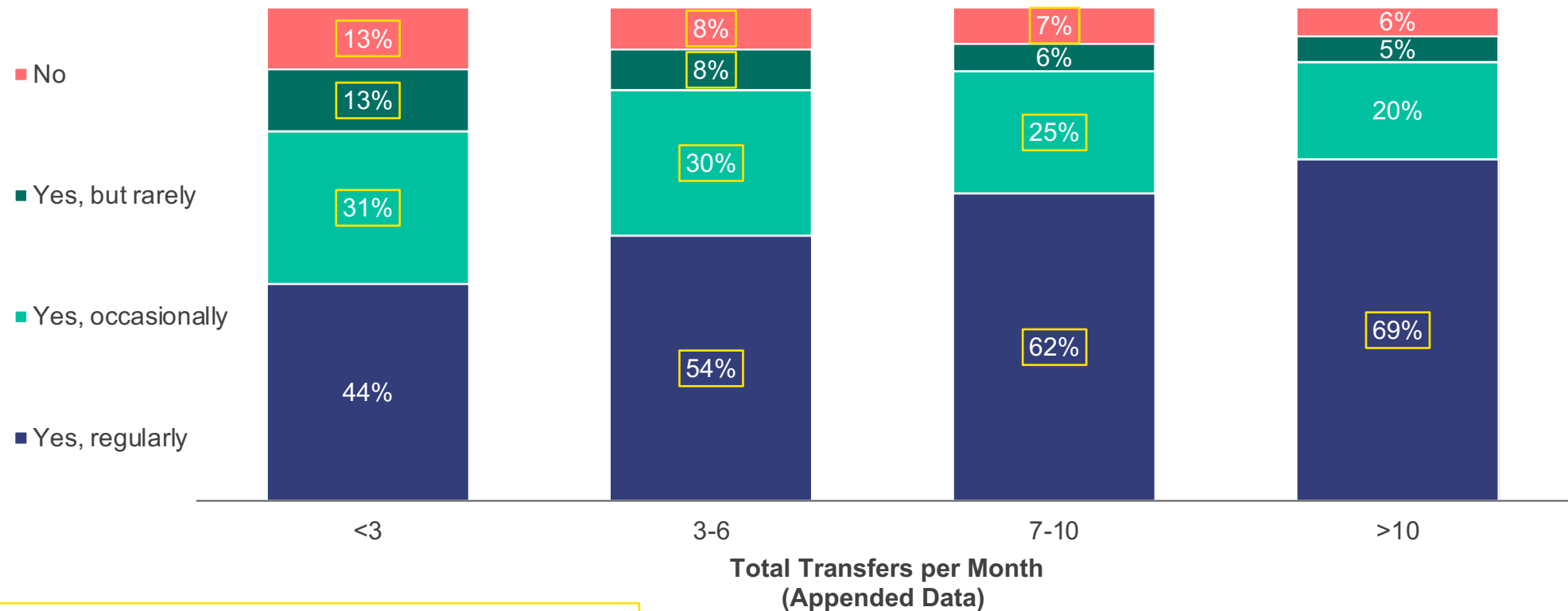
*Do you check your earnings activity in DailyPay to help you make spending and financial decisions?*



Base: Total Respondents: n=10,283

# Users who make more transfers per month are more likely to check their earnings activity to help them make financial decisions

Among respondents who check the DailyPay app at least a few times per year  
*Do you check your earnings activity in DailyPay to help you make spending and financial decisions?*

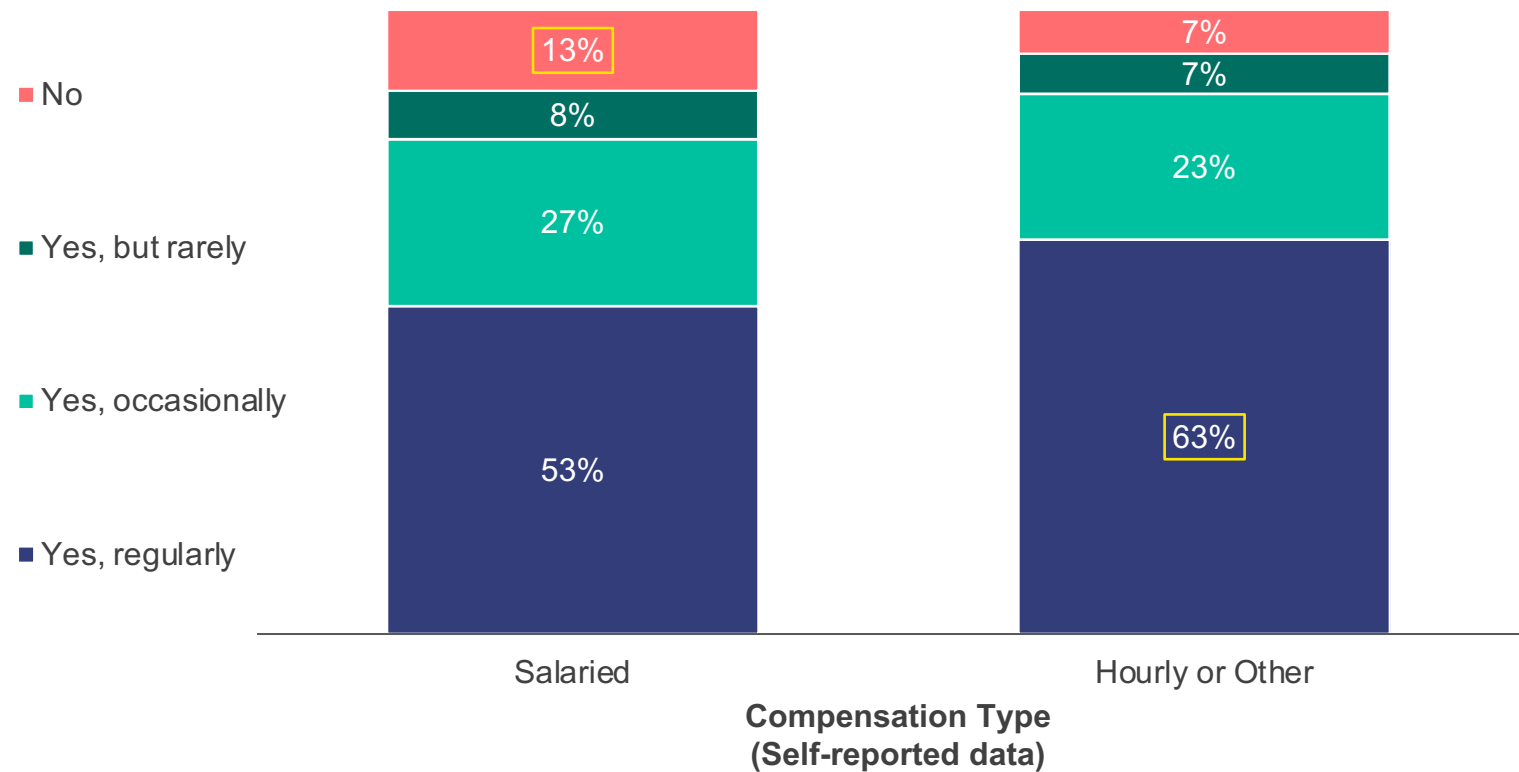


Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: Among respondents who check the DailyPay app at least a few times per year: n=10149; By Total transfers per month: <3: n=1006, 3-6: n=1871, 7-10: n=1820, >10: n=5452

# Non-salaried users use tracked earnings information to make financial decisions more often than salaried users

**AMONG USERS WHO TRACK EARNINGS**  
*Do you check your earnings activity in DailyPay to help you make spending and financial decisions?*

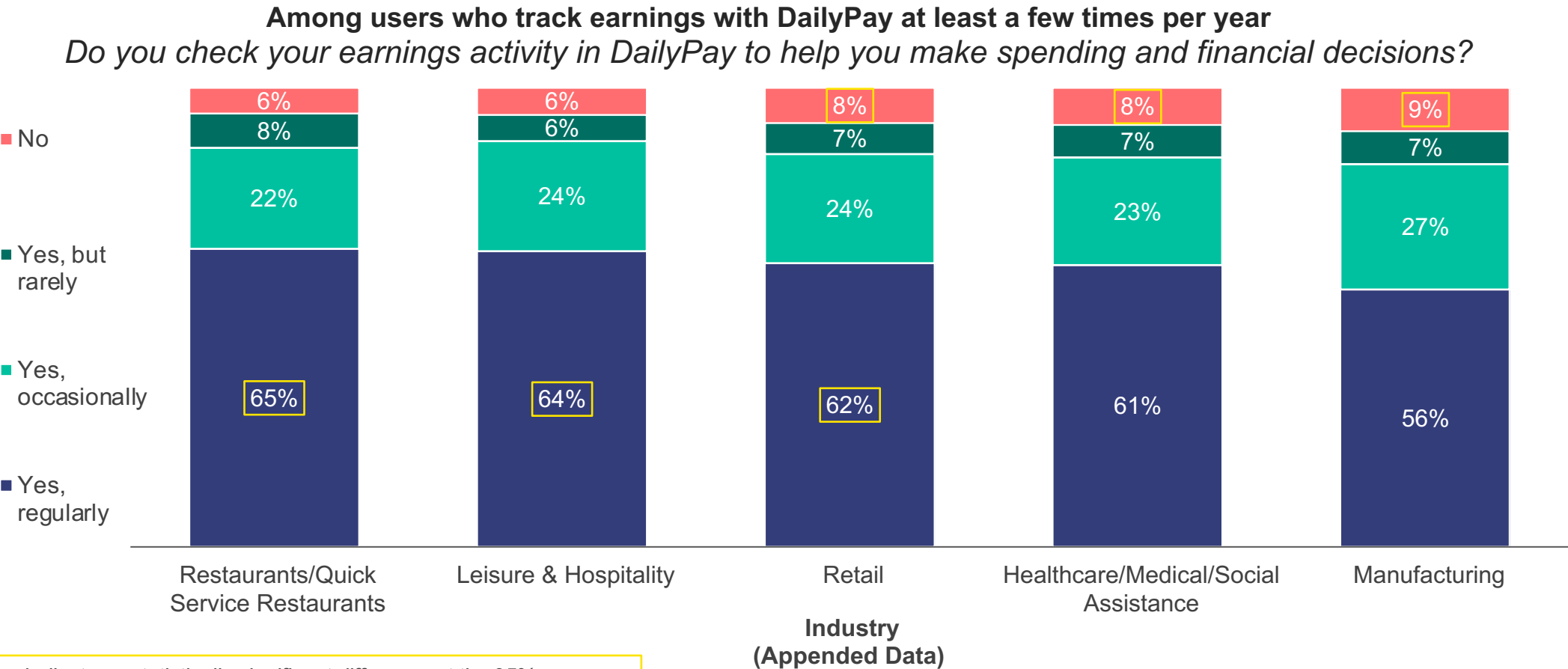


Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Labels not shown for values less than 5%

Base: Among users who check their earnings on DailyPay by compensation type: Salaried: 590, Hourly or Other: n=9559

# Restaurant, leisure & hospitality, and retail workers are more likely to regularly check their earnings activity to make financial decisions

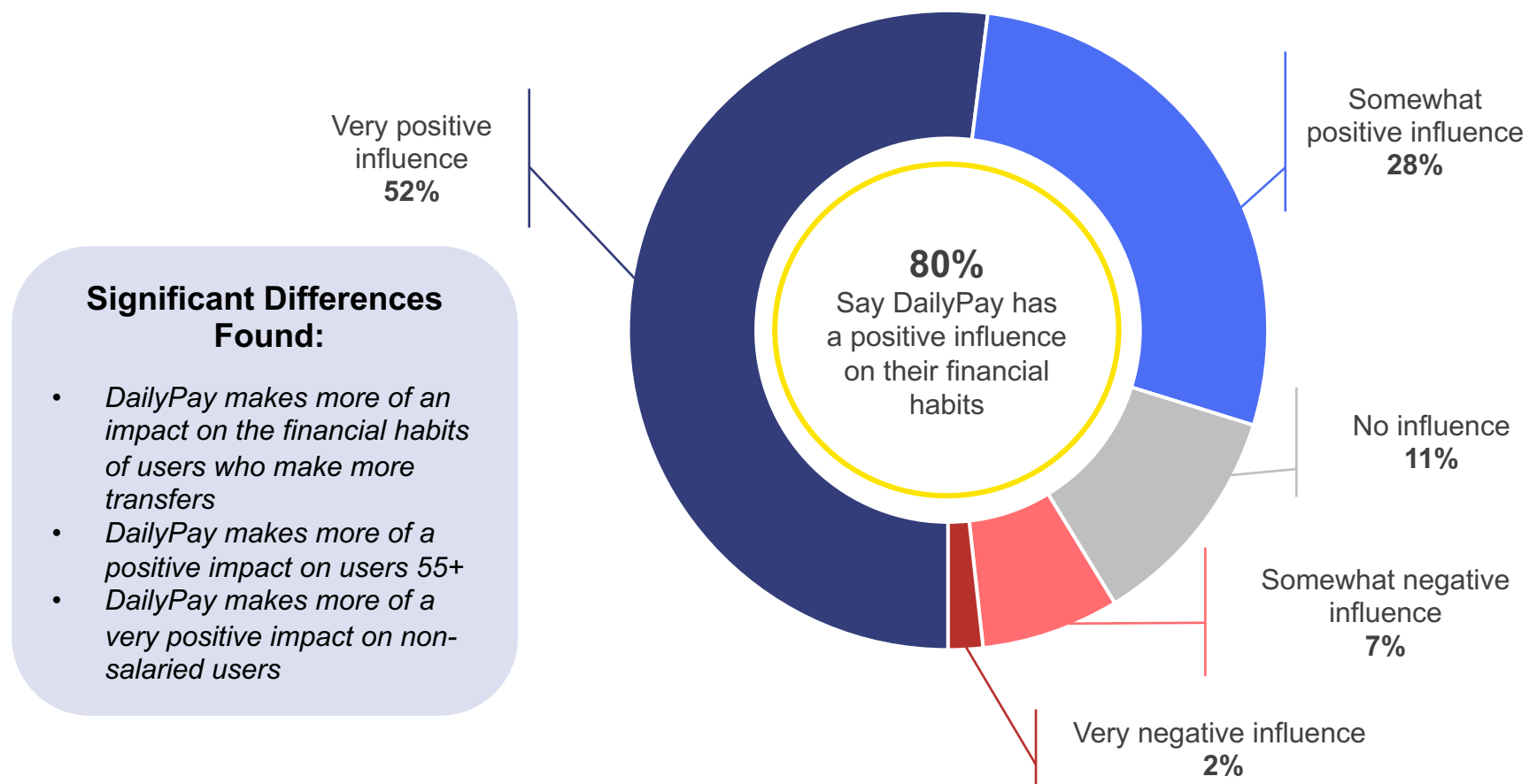


Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: Among users who fall into one of these key target industries AND check their DailyPay app to track earnings: Retail: n=2689, Restaurants/Quick Service Restaurants: n=813, Leisure & Hospitality: n=363, Healthcare/Medical/Social Assistance: n=2422, Manufacturing: n=321

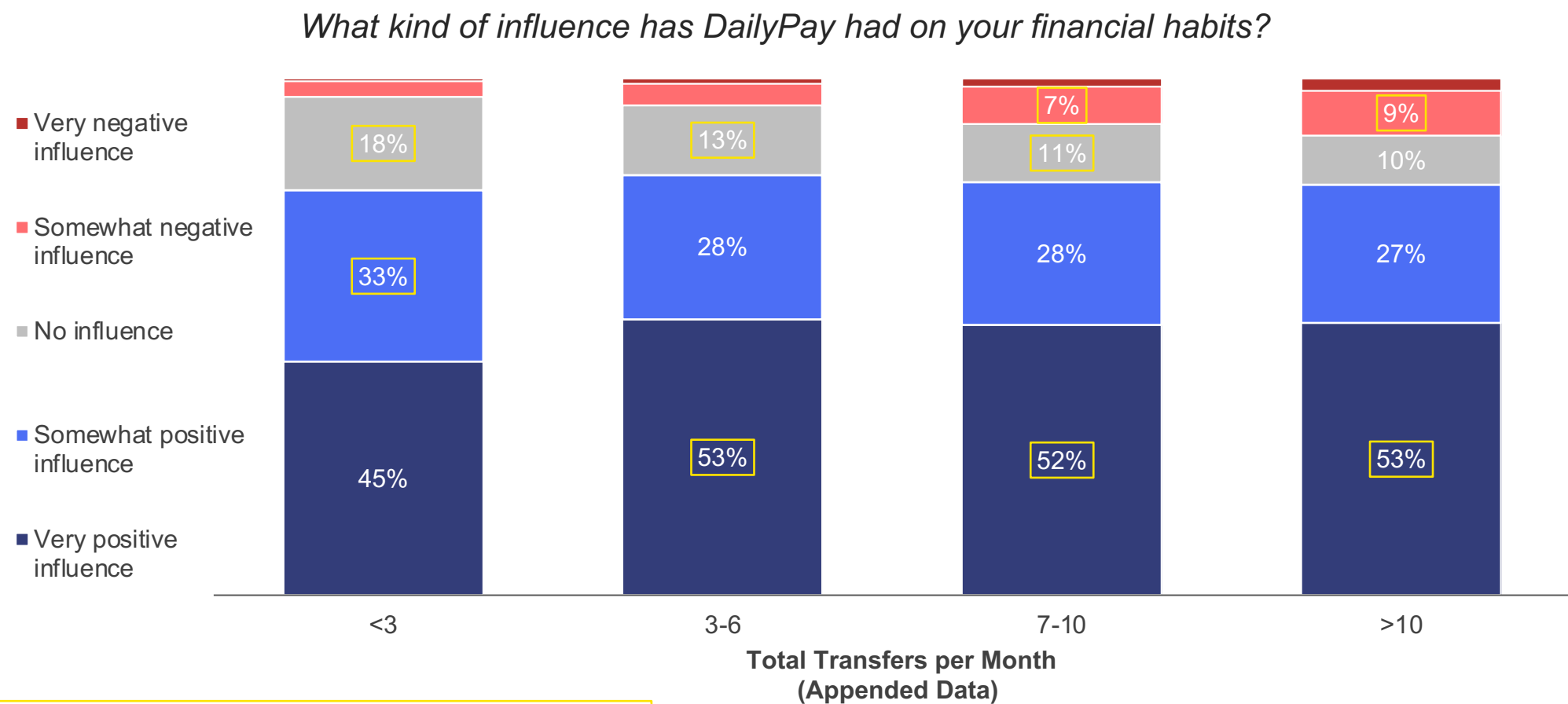
# DailyPay has a positive influence on the financial habits of 8-in-10 users

*What kind of influence has DailyPay had on your financial habits?*



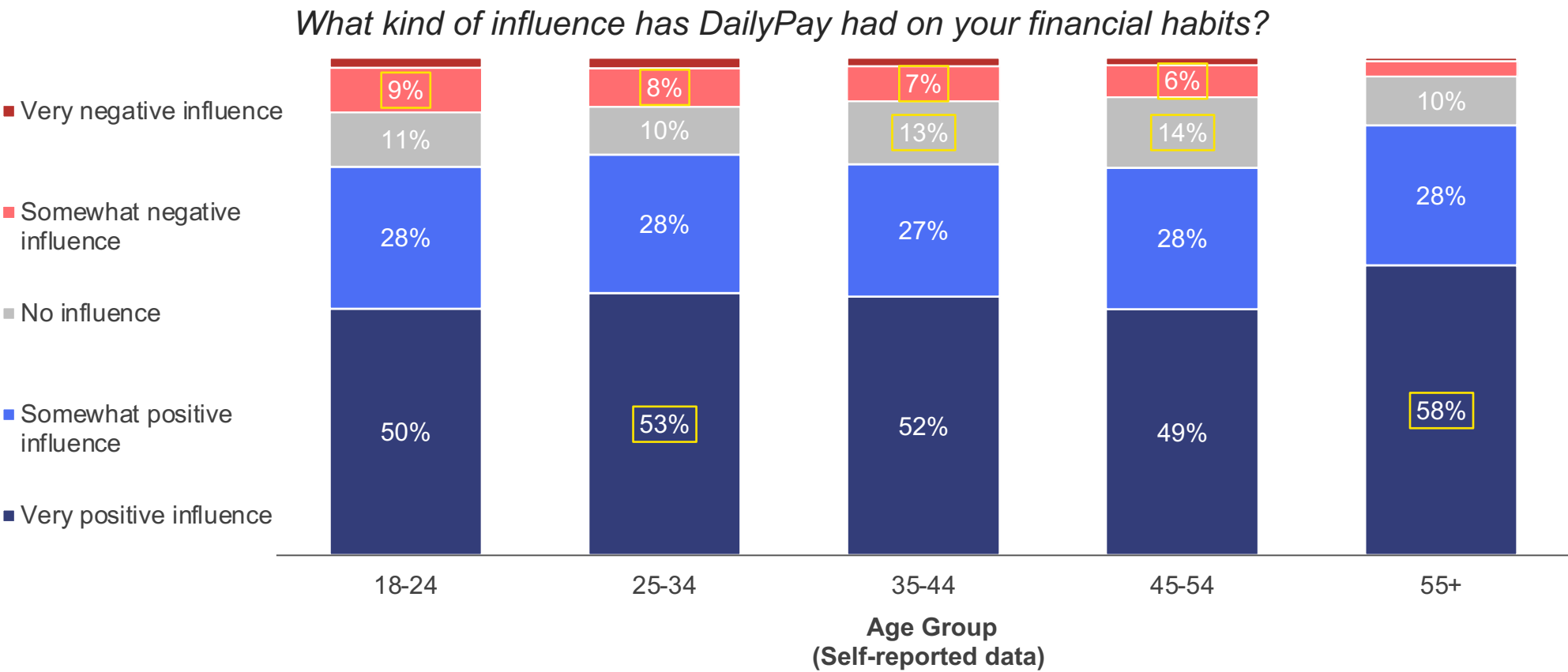
Base: Total Respondents: n=10,283

# Users who make more transfers per month say DailyPay has more of an impact on their financial habits



Base: Among all respondents: n=10283; By Total transfers per month: <3: n=1041, 3-6: n=1920, 7-10: n=1833, >10: n=5489

# Users 55 and older are more likely to report DailyPay has had a very positive influence on their financial habits



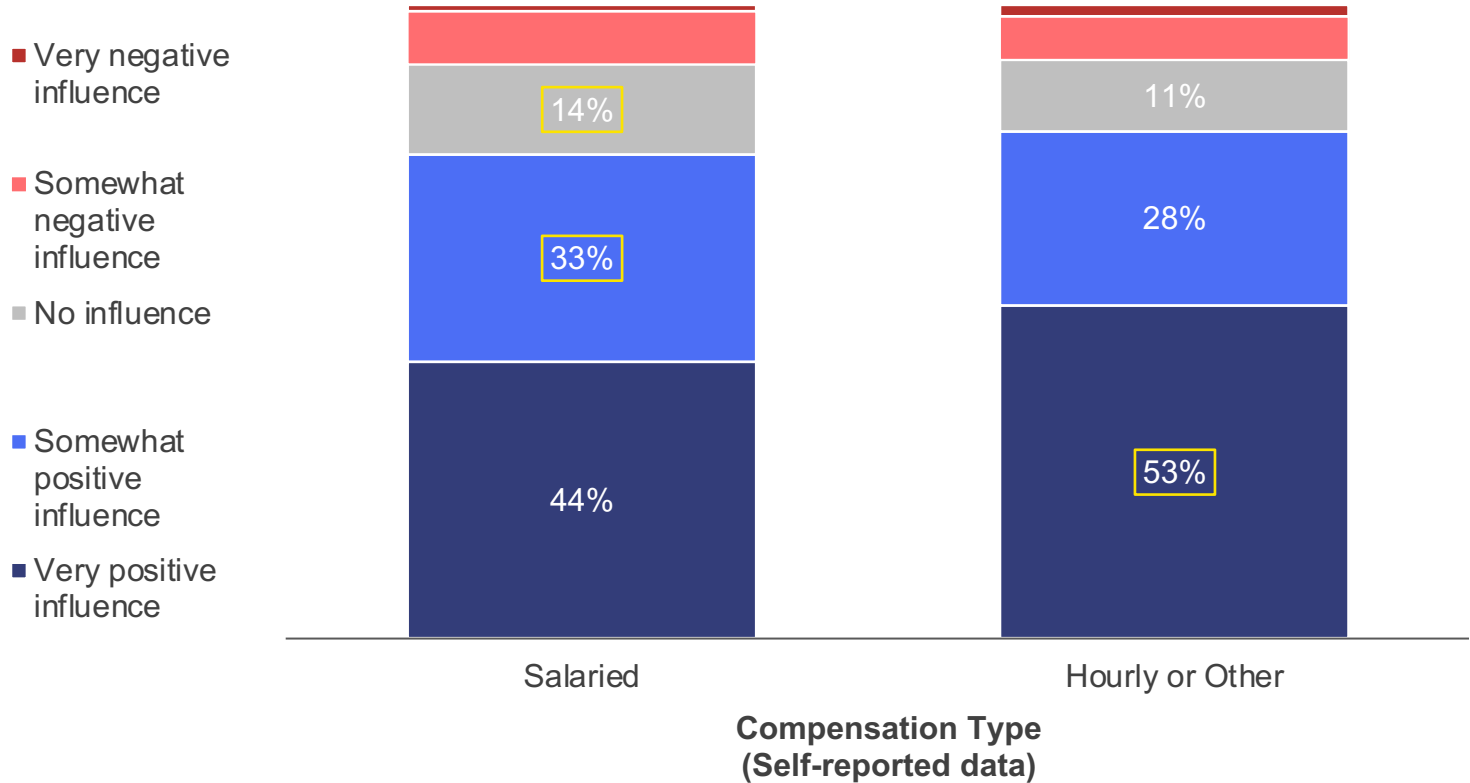
Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Labels not shown for values less than 5%

Base: By Age group: 18-24: n=1485, 25-34: n=3032, 35-44: n=2758, 45-54: n=1751, 55+: n=1115

# Non-salaried users are more likely than salaried users to say DailyPay has had a very positive impact on their financial habits

What kind of influence has DailyPay had on your financial habits?



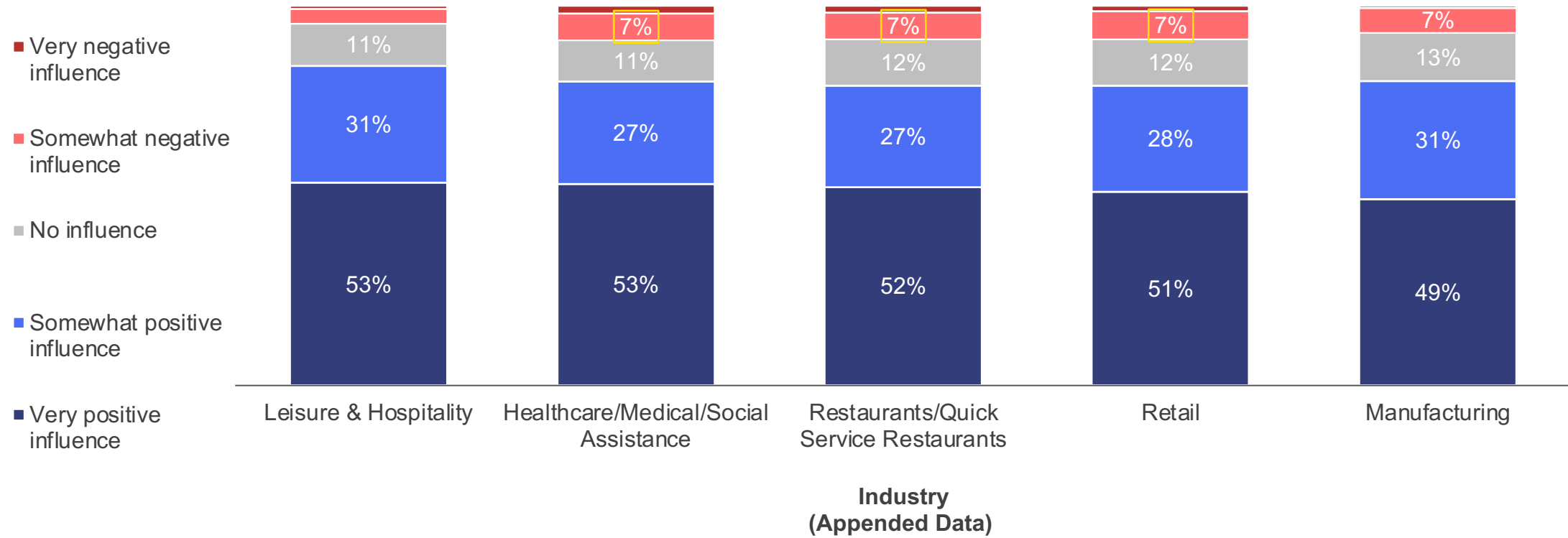
Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Labels not shown for values less than 5%

Base: Among all respondents by compensation type: Salaried: n=609, Hourly or Other: n=9674

# Impact of DailyPay on the financial habits of users is consistent across industries

What kind of influence has DailyPay had on your financial habits?



Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Labels not shown for values less than 5%

Base: Among users who fall into one of these key target industries AND check their DailyPay app to track earnings: Retail: n=2689, Restaurants/Quick Service Restaurants: n=813, Leisure & Hospitality: n=363, Healthcare/Medical/Social Assistance: n=2422, Manufacturing: n=321

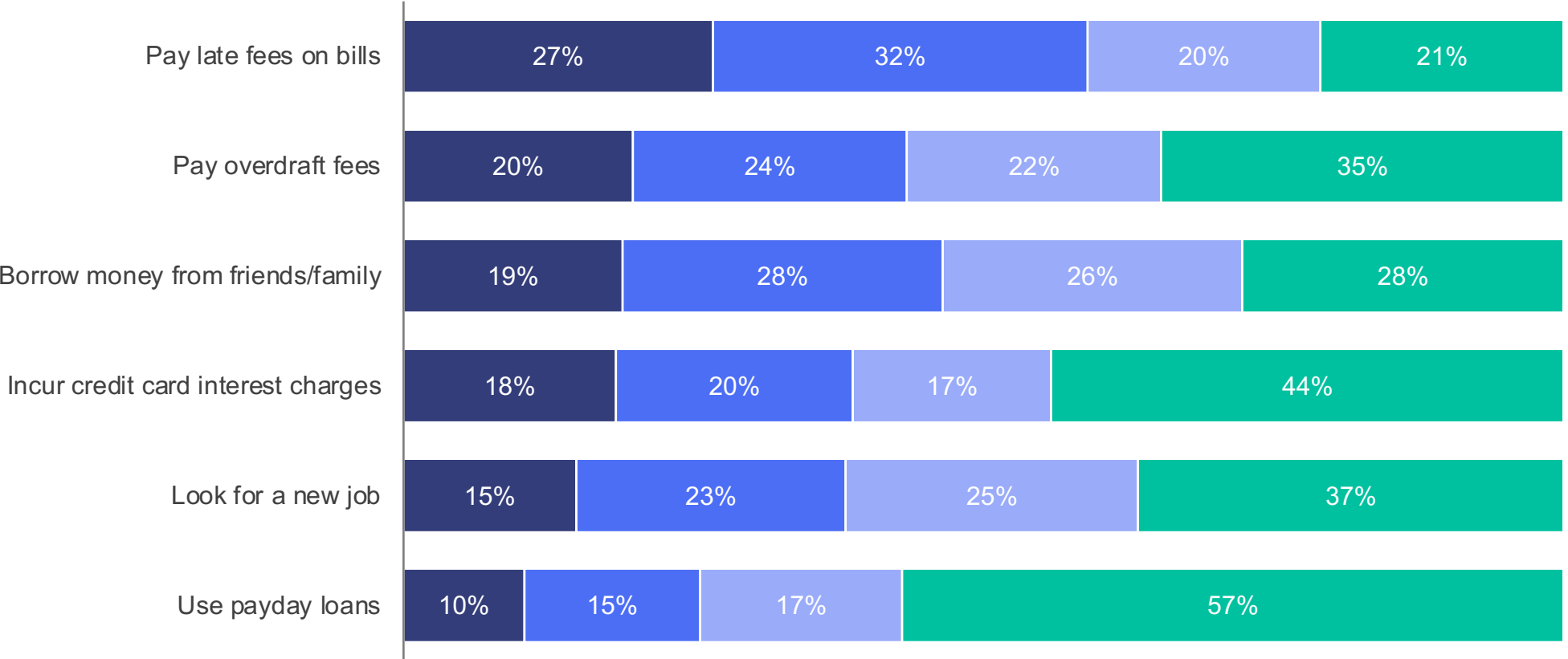
# Before using DailyPay, nearly a third of users were regularly paying late fees on bills and 2-in-10 were regularly paying overdraft fees

Before you had DailyPay, how often would you say that you did the following things?

■ Regularly ■ Occasionally ■ Rarely ■ Never

**Significant Differences Found by:**

- Age
- Compensation type
- Industry

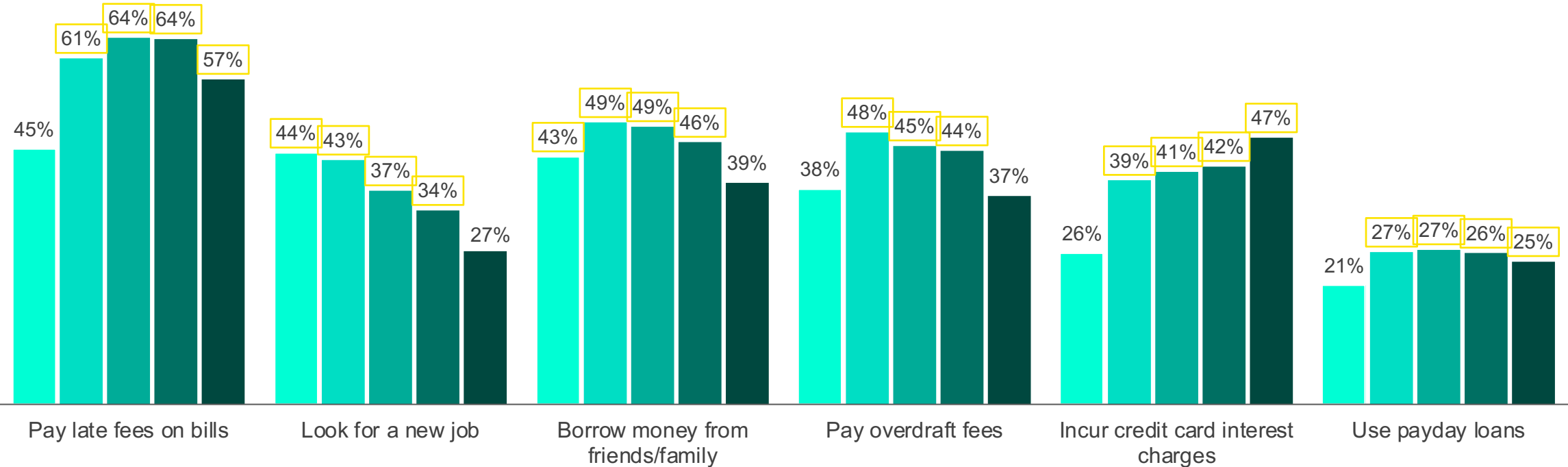


Base: Total Respondents: n=10,283

# Employee behavior before using DailyPay varied by age group

Before you had DailyPay, how often would you say that you did the following things?  
% WHO DID EACH ACTIVITY REGULARLY OR OCCASIONALLY

Age Group (Self-reported data)    18-24    25-34    35-44    45-54    55+

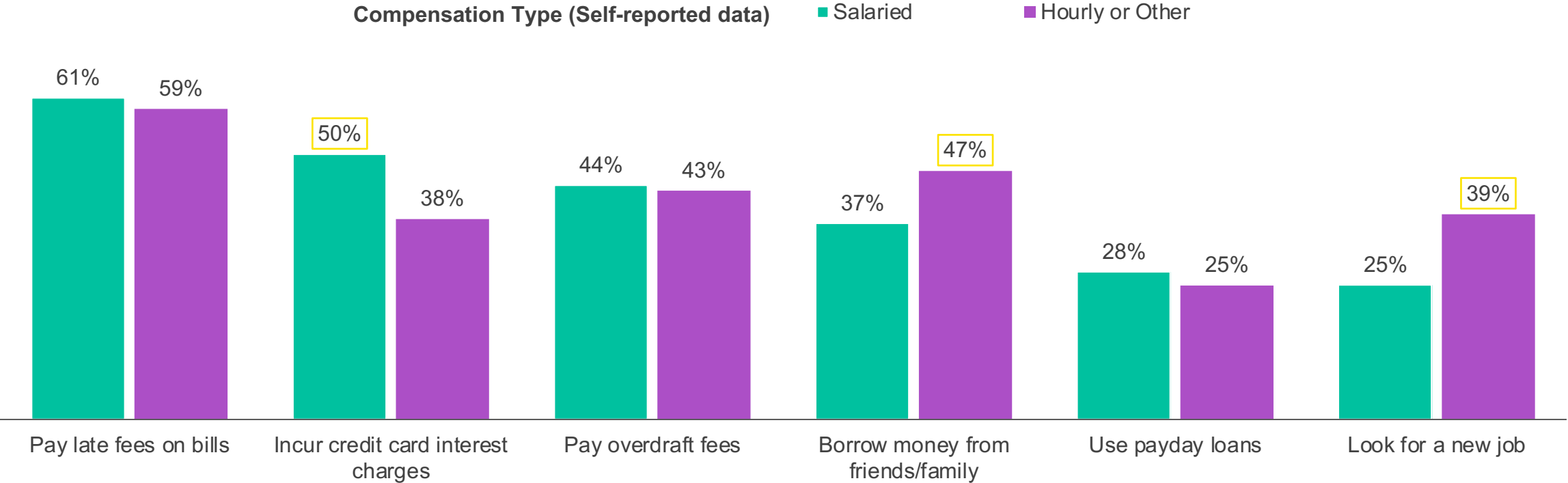


Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: By Age group: 18-24: n=1485, 25-34: n=3032, 35-44: n=2758, 45-54: n=1751, 55+: n=1115

# Before having DailyPay, salaried employees were more likely to incur credit card interest charges while non-salaried employees were more likely to borrow money from family/friends and/or look for new jobs

Before you had DailyPay, how often would you say that you did the following things?  
% WHO DID EACH ACTIVITY REGULARLY OR OCCASIONALLY



Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

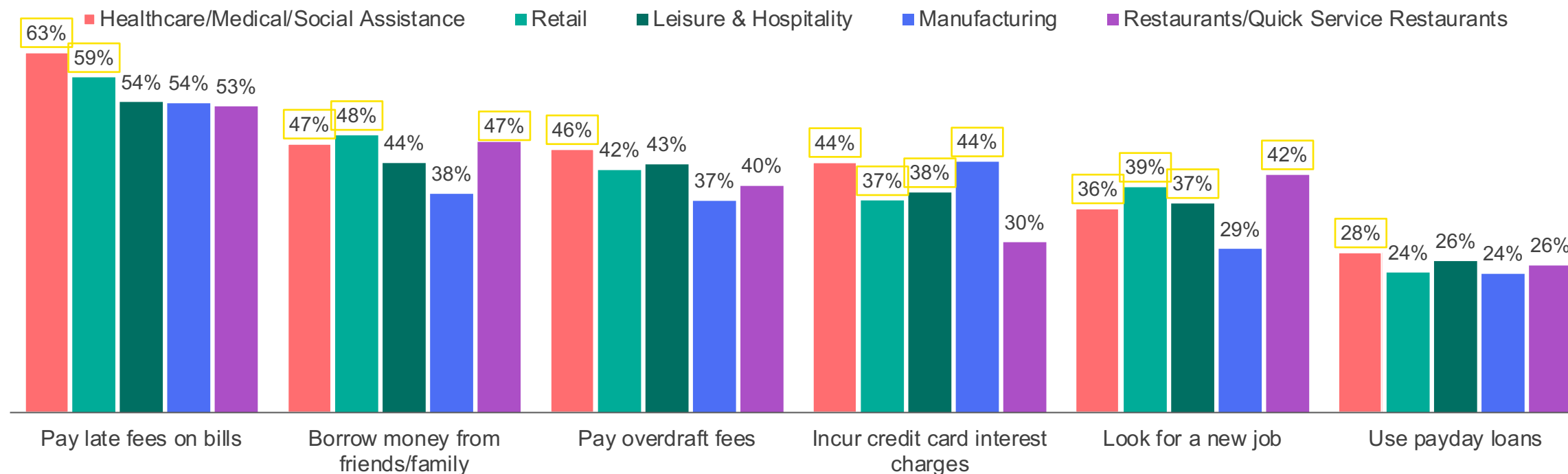
Base: Among all respondents by compensation type: Salaried: n=609, Hourly or Other: n=9674

# Employee behavior before using DailyPay was somewhat varied by industry

*Before you had DailyPay, how often would you say that you did the following things?*

**% WHO DID EACH ACTIVITY REGULARLY OR OCCASIONALLY**

**Industry (Appended Data)**

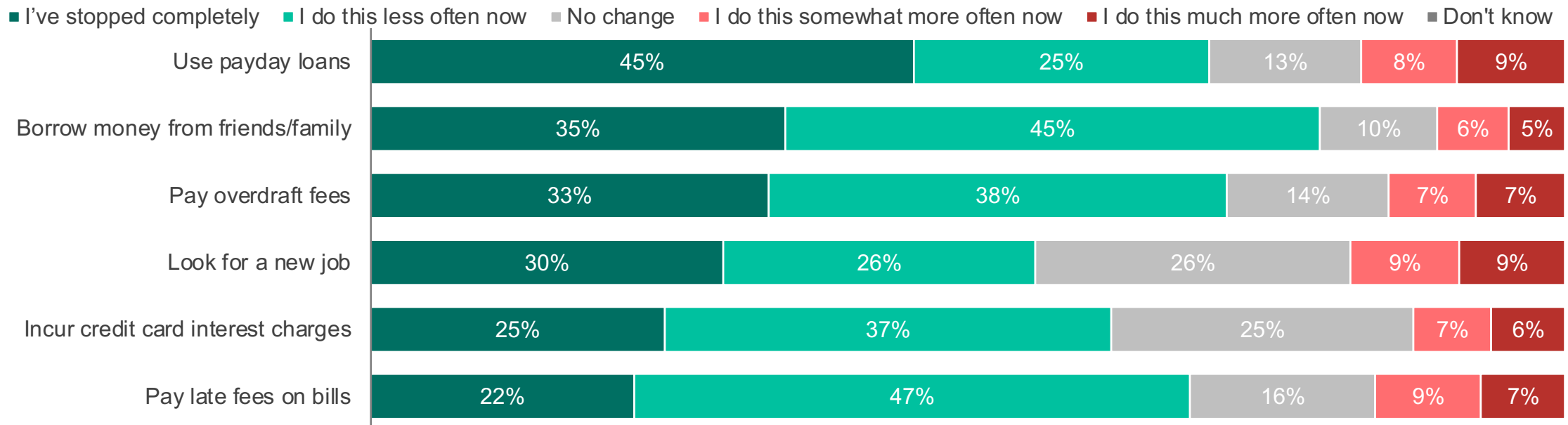


*Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.*

Base: Among users who fall into one of these key target industries AND check their DailyPay app to track earnings: Retail: n=2689, Restaurants/Quick Service Restaurants: n=813, Leisure & Hospitality: n=363, Healthcare/Medical/Social Assistance: n=2422, Manufacturing: n=321

## 4-in-10 DailyPay users have decreased their use of payday loans since becoming users; 3-in-10 have stopped all together

Among those who previously regularly or occasionally did the following before using DailyPay  
*Since you started using DailyPay, how, if at all, has the frequency that you take the following actions changed?*



**Significant Differences Found by:**

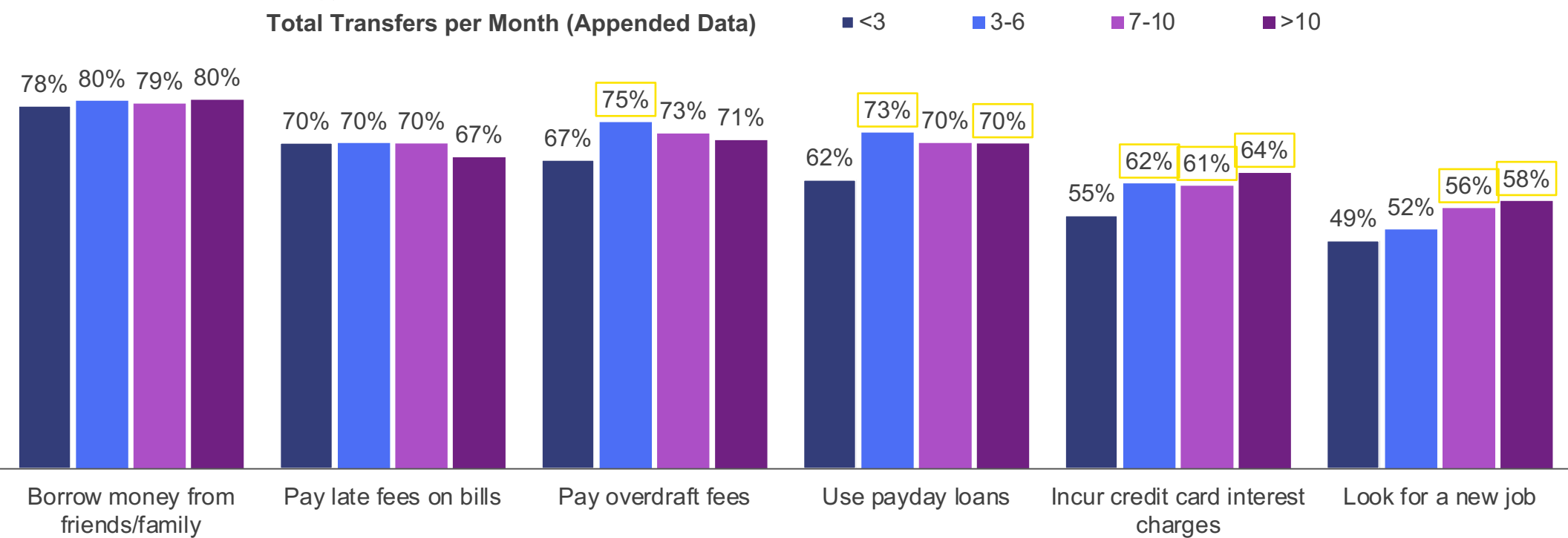
- Transfers per month
- Age
- Compensation type
- Target industry

Base: Among those who previously did the activities in each line item before using DailyPay; base varies by line item

# The number of transfers per month a user makes is linked to personal finance and behavior outcomes

Among respondents who did each activity regularly or occasionally before using DailyPay  
*Since you started using DailyPay, how, if at all, has the frequency that you take the following actions changed?*

**% WHO DO THIS LESS OFTEN NOW OR HAVE STOPPED COMPLETELY**

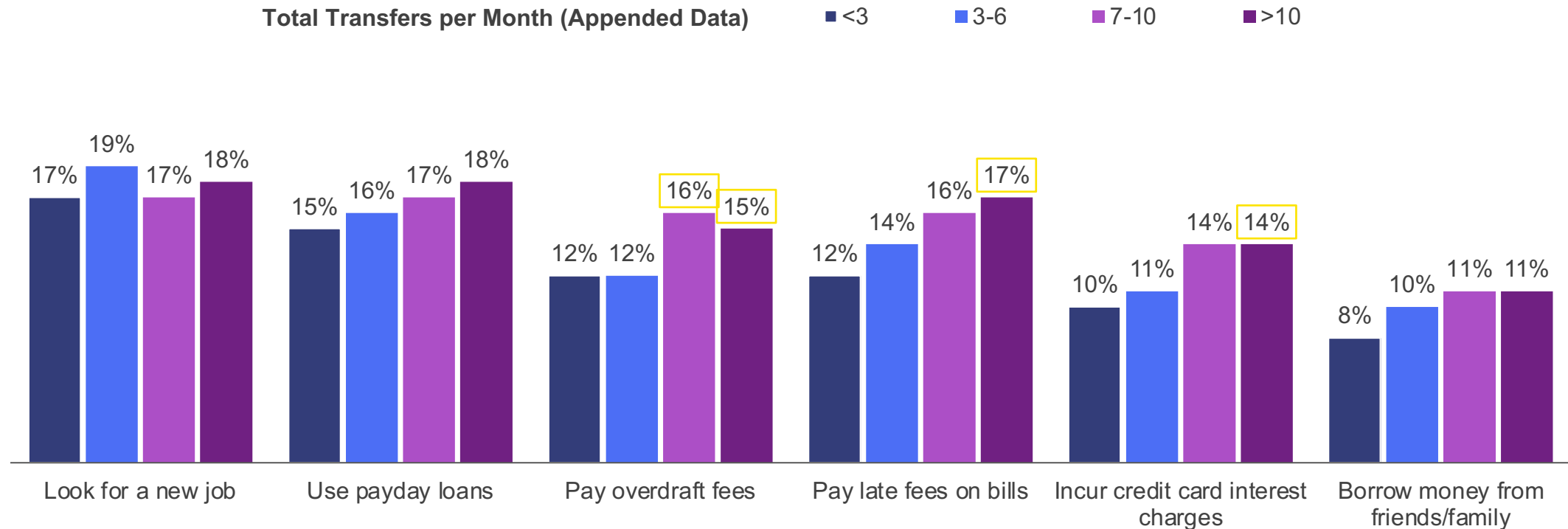


Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: Among respondents who did each activity regularly or occasionally before using DailyPay: Bases vary by activity

# Users who make more transfers per month are more likely to pay overdraft fees and incur credit card interest charges since becoming users

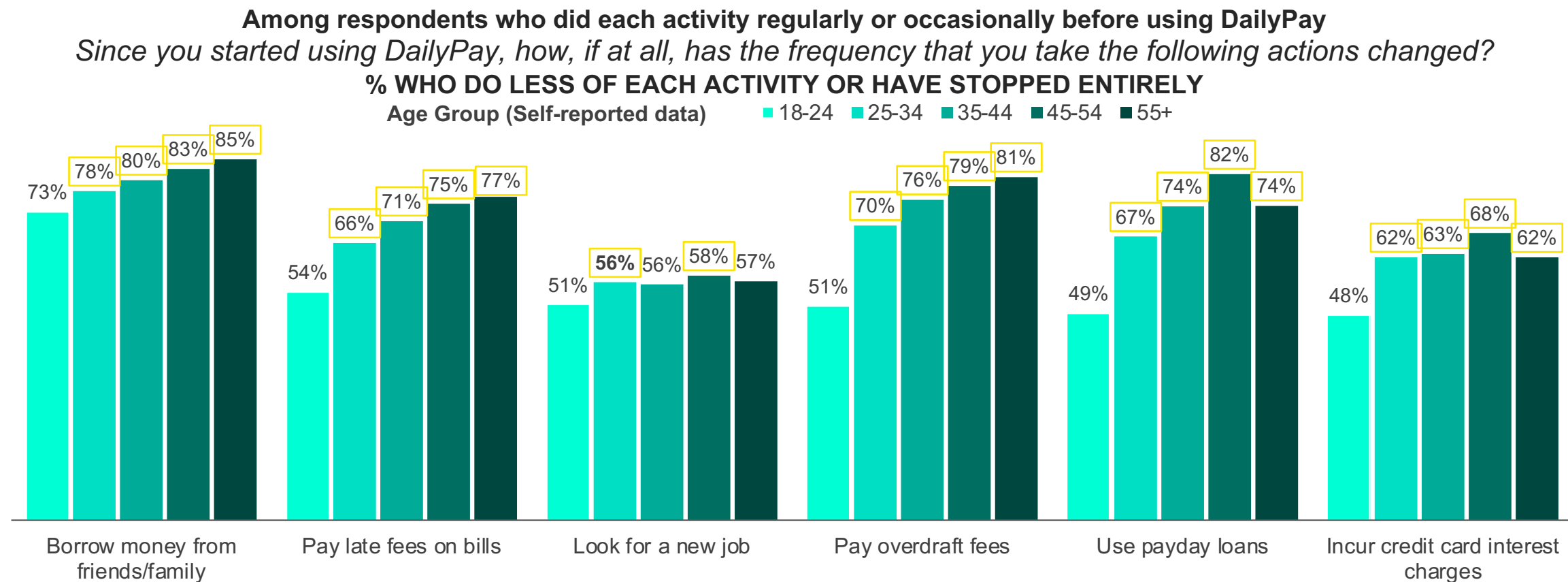
Among respondents who did each activity regularly or occasionally before using DailyPay  
*Since you started using DailyPay, how, if at all, has the frequency that you take the following actions changed?*  
**% WHO DO THIS MORE OFTEN NOW**



Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: Among respondents who did each activity regularly or occasionally before using DailyPay: Bases vary by activity

# Since starting using DailyPay, older users are more likely to have decreased engagement with many of the following activities

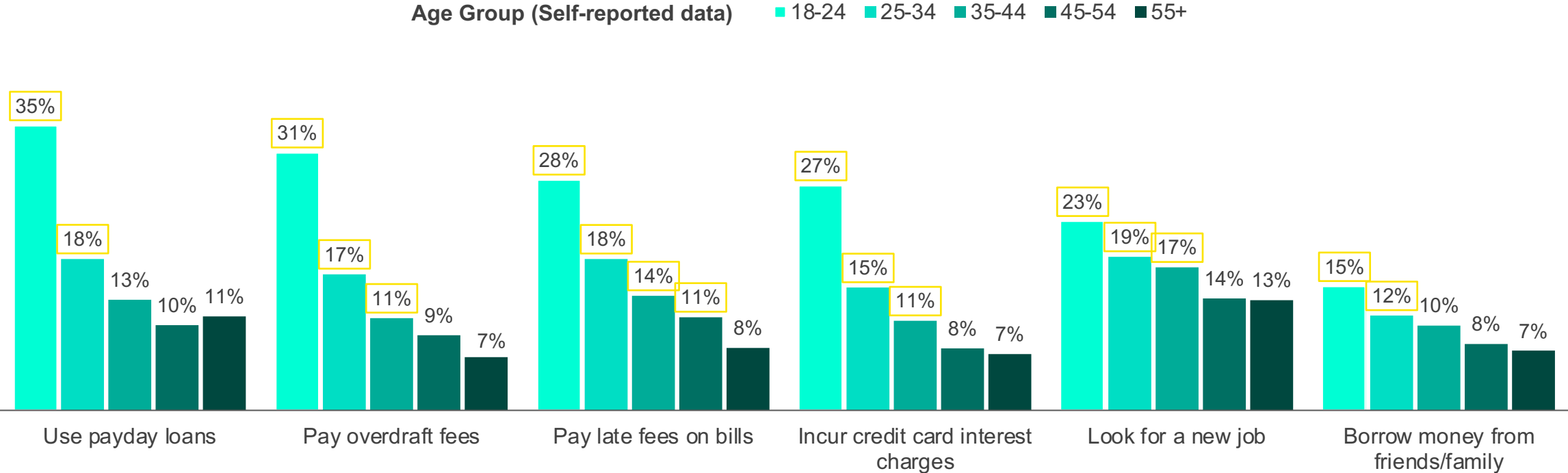


Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: Among respondents who did each activity regularly or occasionally before using DailyPay: Bases vary by activity

# Since starting using DailyPay, younger users are more likely to have increased engagement with all of the following activities

Among respondents who did each activity regularly or occasionally before using DailyPay  
*Since you started using DailyPay, how, if at all, has the frequency that you take the following actions changed?*  
**% WHO DO EACH ACTIVITY MORE OFTEN NOW**



Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: Among respondents who did each activity regularly or occasionally before using DailyPay: Bases vary by activity

# Salaried users are more likely than non-salaried users to have reduced or stopped many of the following activities since starting to use DailyPay

Among respondents who did each activity regularly or occasionally before using DailyPay

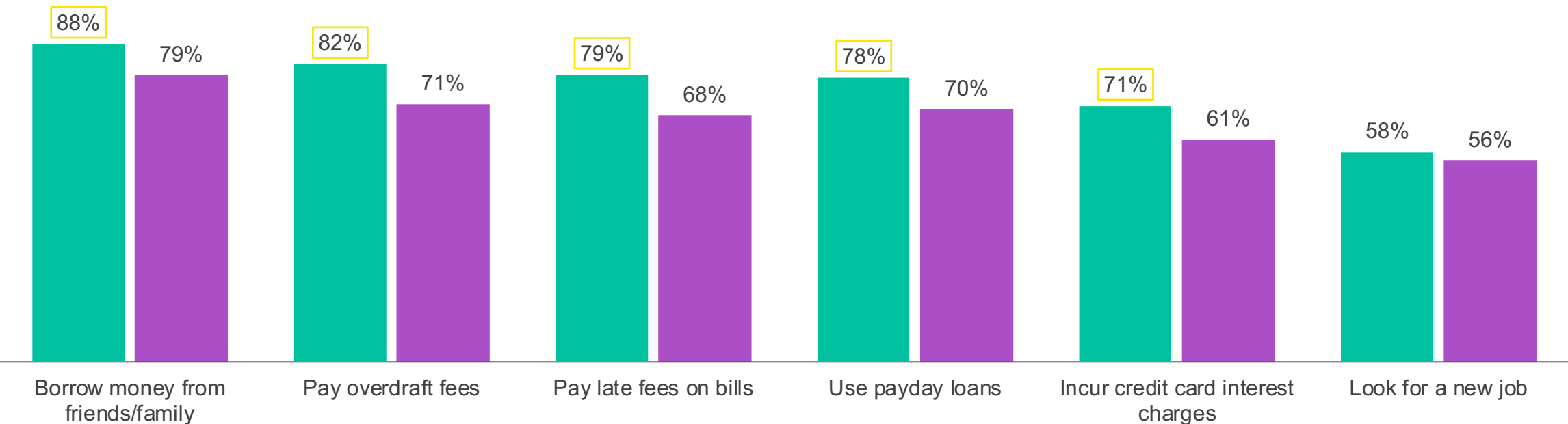
Since you started using DailyPay, how, if at all, has the frequency that you take the following actions changed?

% WHO DO LESS OF EACH ACTIVITY OR HAVE STOPPED ENTIRELY

Compensation Type (Self-reported data)

Salaried

Hourly or Other



Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

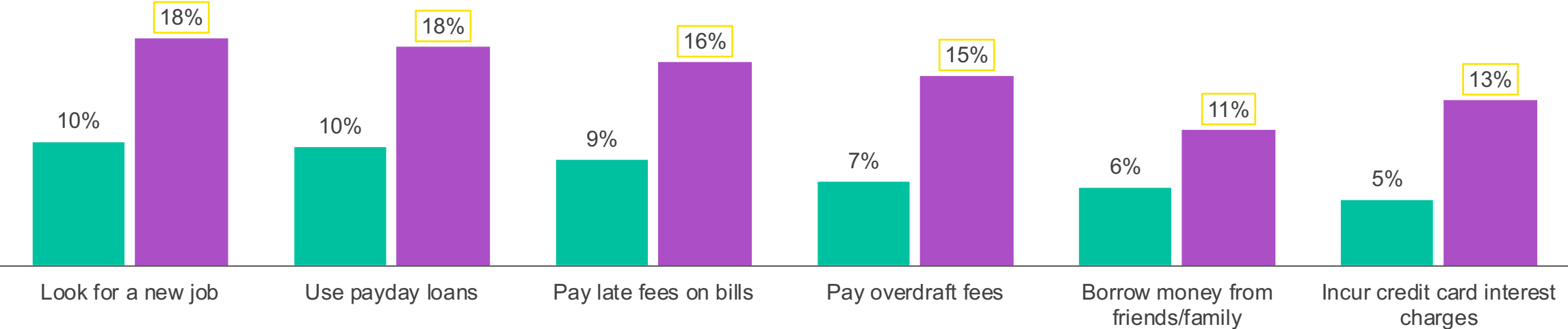
Base: Among respondents who did each activity regularly or occasionally before using DailyPay: Bases vary by activity

# Non-salaried users are more likely to report an increase in each of the following activities since starting to use DailyPay

Among respondents who did each activity regularly or occasionally before using DailyPay  
*Since you started using DailyPay, how, if at all, has the frequency that you take the following actions changed?*

**% WHO DO MORE OF EACH ACTIVITY NOW**

Compensation Type (Self-reported data)    ■ Salaried    ■ Hourly or Other

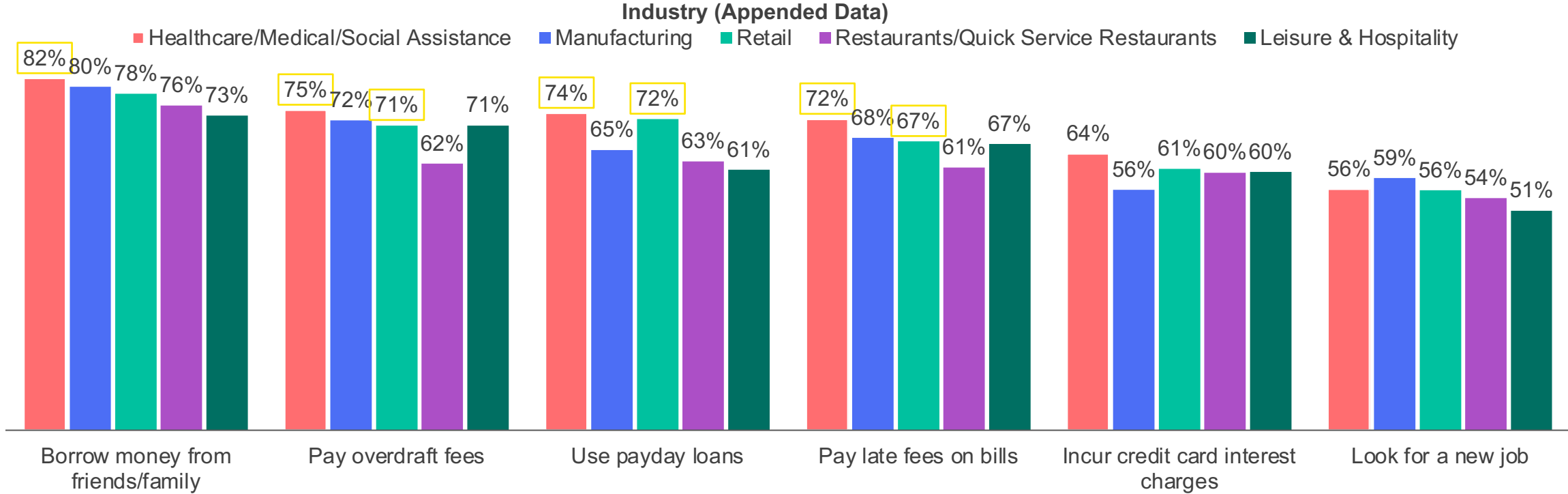


Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: Among respondents who did each activity regularly or occasionally before using DailyPay: Bases vary by activity

# Healthcare and retail workers are more likely to report reduction/cessation of many of the following activities since becoming DailyPay users

**Among respondents who did each activity regularly or occasionally before using DailyPay**  
*Since you started using DailyPay, how, if at all, has the frequency that you take the following actions changed?*  
**% WHO DO LESS OF EACH ACTIVITY OR HAVE STOPPED**

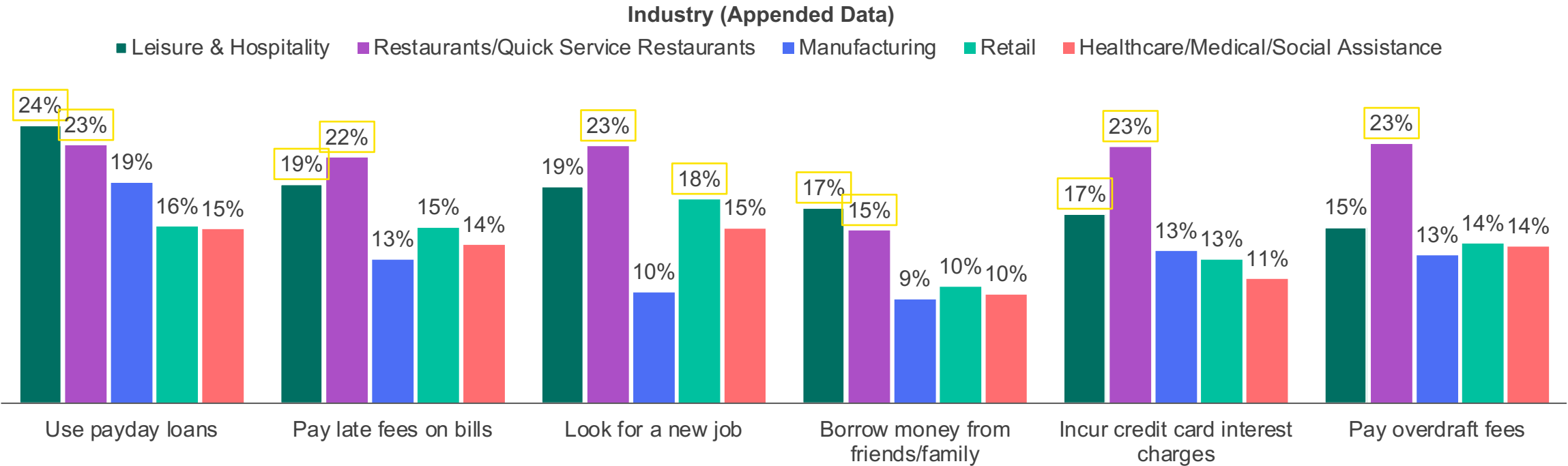


Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: Among respondents who did each activity regularly or occasionally before using DailyPay: Bases vary by activity

# Restaurant and leisure/hospitality workers are more likely to increase engagement with the following activities since becoming DailyPay users

Among respondents who did each activity regularly or occasionally before using DailyPay  
*Since you started using DailyPay, how, if at all, has the frequency that you take the following actions changed?*  
**% WHO DO MORE OF EACH ACTIVITY NOW**



Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

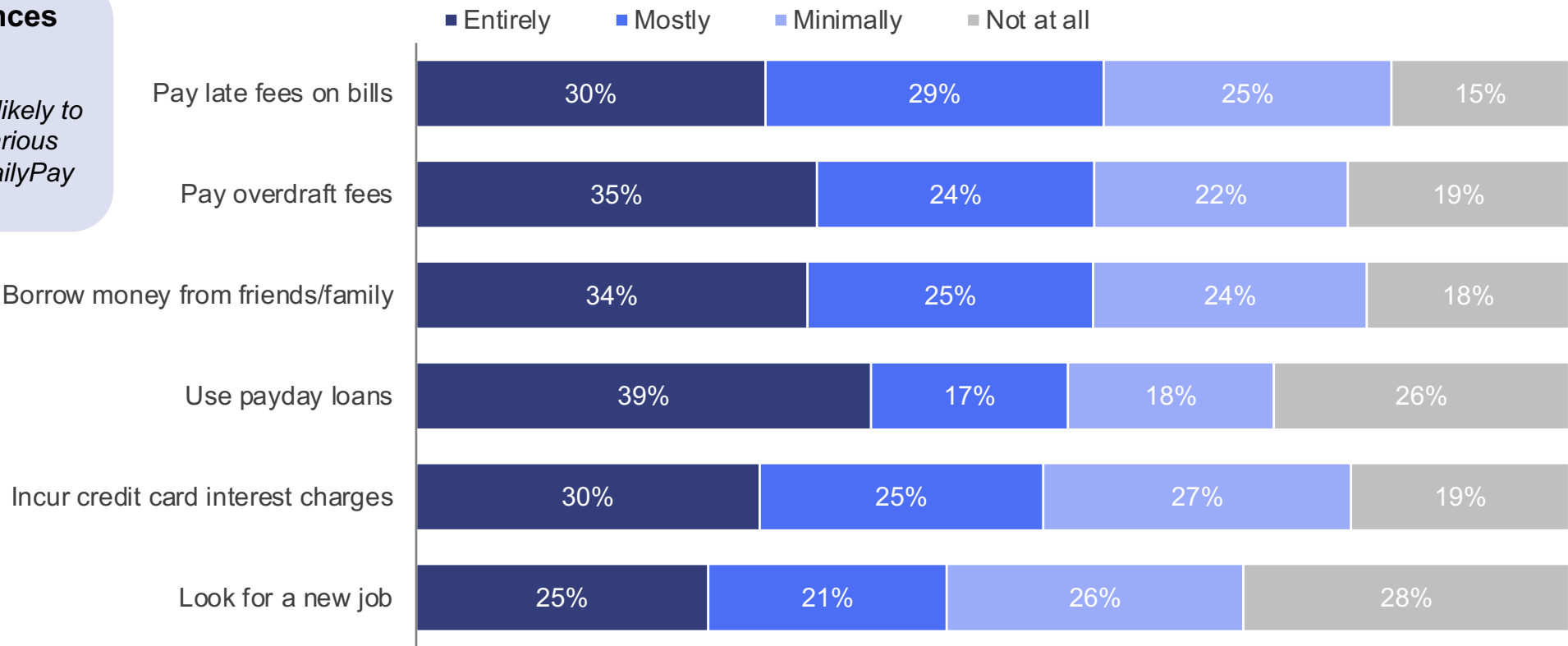
Base: Among respondents who did each activity regularly or occasionally before using DailyPay: Bases vary by activity

# Over half of users who pay less late fees on bills since becoming DailyPay users attribute most or all of that improvement to the app

Among users who engage in less of each item listed since starting to use DailyPay  
*You said you do the following things less now that you started using DailyPay. To what extent is that due to using DailyPay?*

**Significant Differences Found:**

- *Newer users are more likely to attribute reduction in various behaviors entirely to DailyPay*

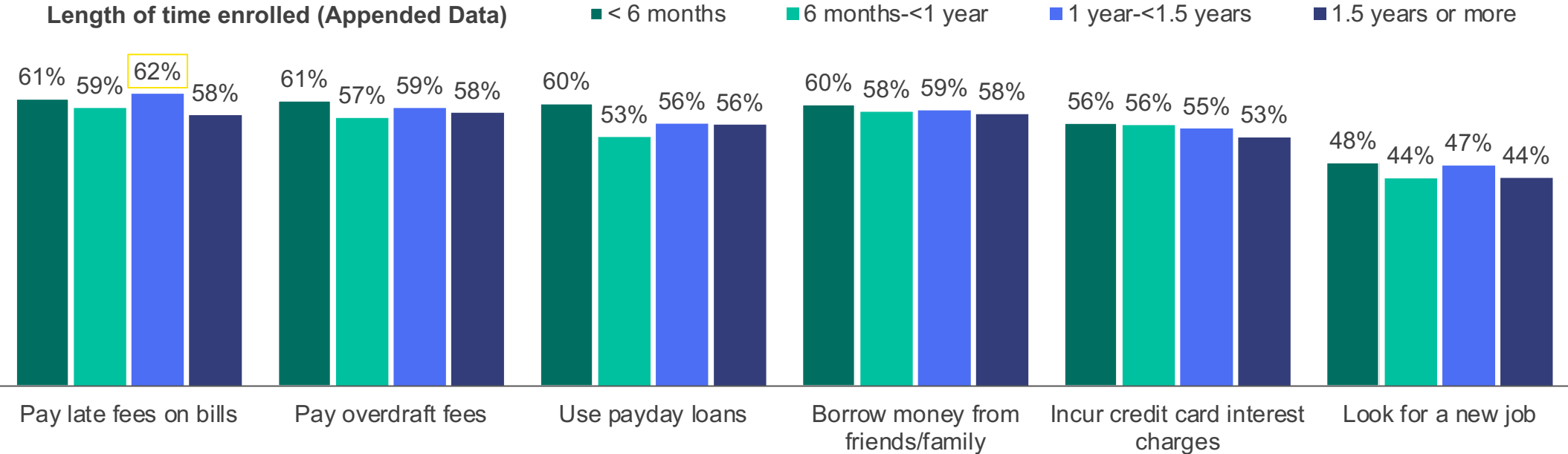


Base: Among those who engage in less of the items listed; Base varies by line item

# Users of all tenures are equally likely to agree that reduction of the following behaviors is due to using DailyPay

Among users who self-reported reduction in each activity  
*You said you do the following things less now that you started using DailyPay. To what extent is that due to using DailyPay?*

**% WHO ATTRIBUTE THIS REDUCTION ENTIRELY OR MOSTLY TO USING DAILYPAY**



Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

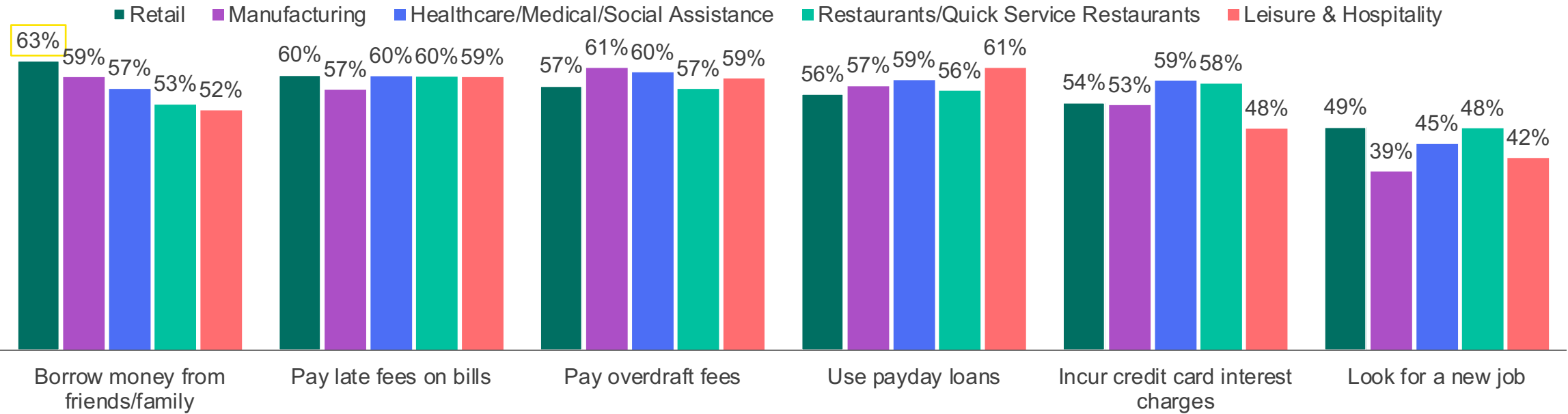
Base: Among users who self-reported reduction in each activity: Borrow money from family and friends: n=3730, Pay late fees on bills: n=4036, Use payday loans: n=1776, Pay overdraft fees: n=3104, Incur credit card interest charges: n=2364, Look for a new job: n=2103

# DailyPay is equally impactful to reducing the following behaviors across industries

Among users who self-reported reduction in each activity  
*You said you do the following things less now that you started using DailyPay. To what extent is that due to using DailyPay?*

**% WHO ATTRIBUTE THIS REDUCTION ENTIRELY OR MOSTLY TO USING DAILYPAY**

Industry (Appended Data)



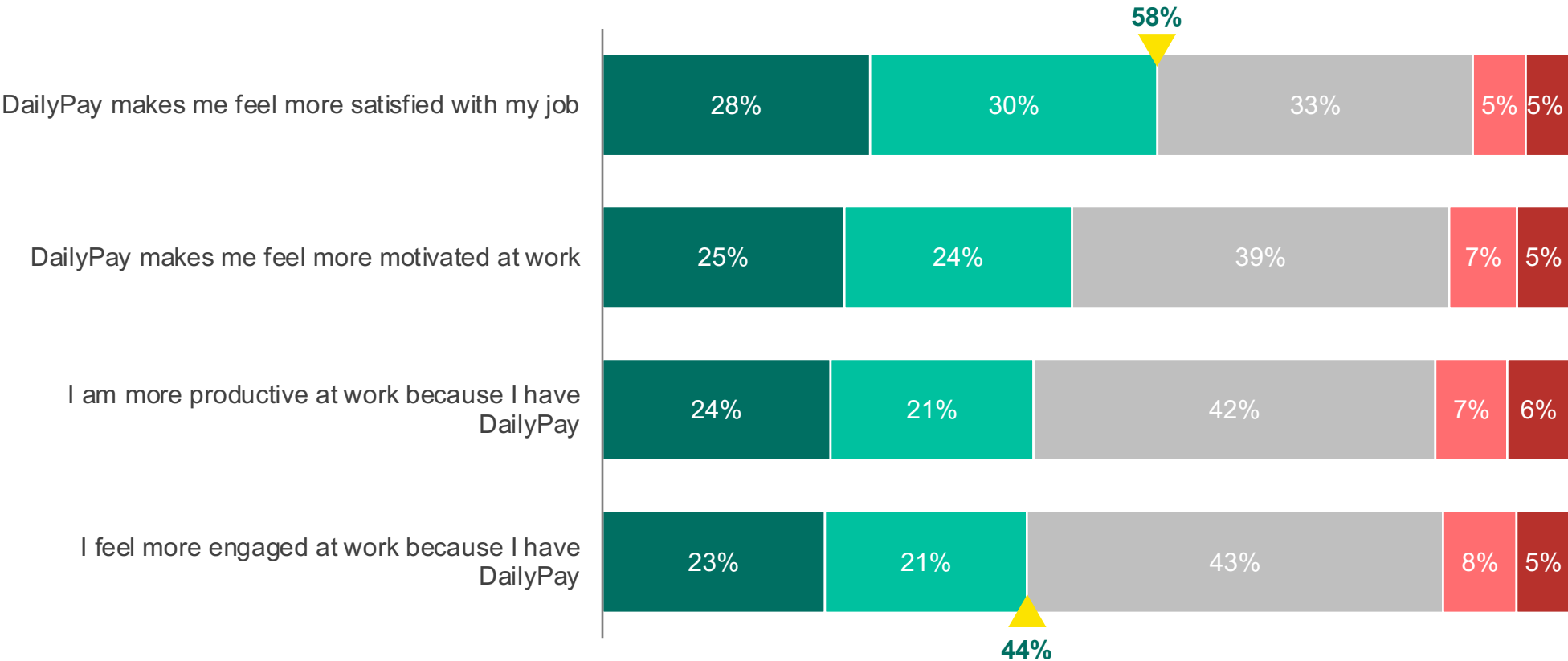
Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: Among respondents who did each activity regularly or occasionally before using DailyPay: Bases vary by activity

# Nearly 6-in-10 users are more satisfied with their job due to DailyPay, nearly half are more motivated, and 4-in-10 are more productive

To what extent do you agree or disagree with the following statements?

Strongly Agree   Agree   Neither Agree nor Disagree   Disagree   Strongly Disagree

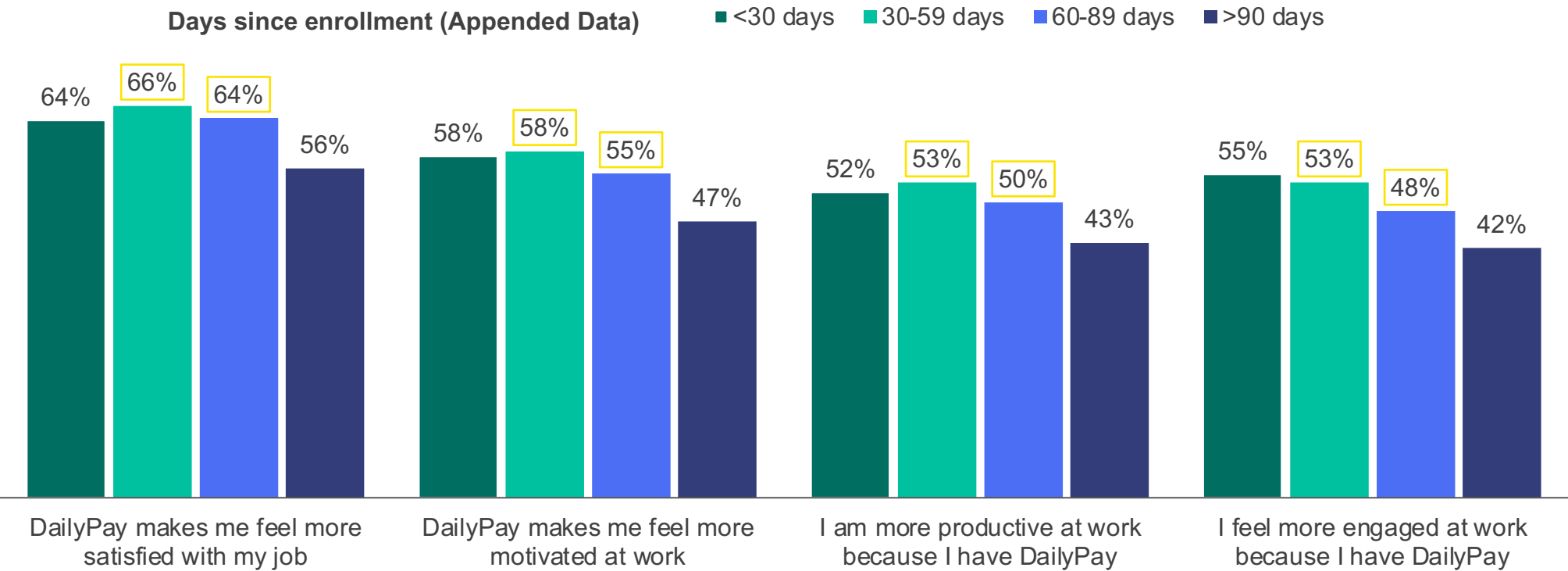


- Significant Differences Found by:**
- Days since enrollment
  - Length of time enrolled
  - Transfers per month
  - Age
  - Compensation type
  - Target industry

Base: Total Respondents: n=10,283

# Users enrolled for less than 90 days are more likely to agree that DailyPay improves their job satisfaction, motivation, productivity, and engagement

To what extent do you agree or disagree with the following statements?  
% STRONGLY AGREE OR AGREE

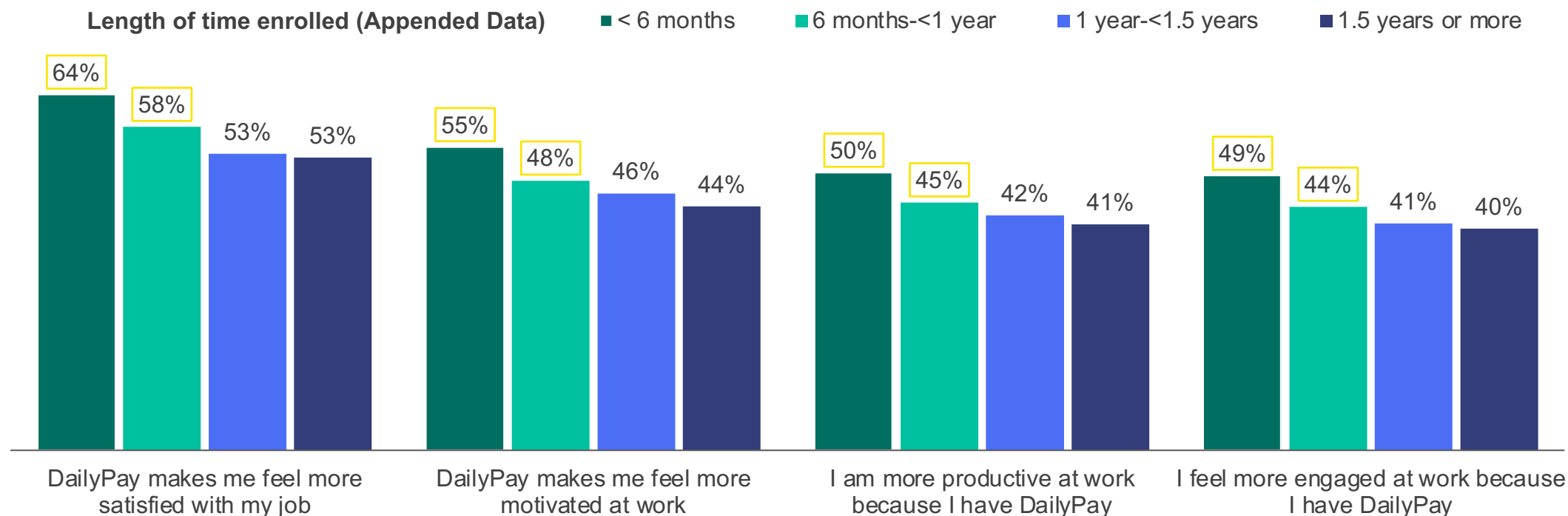


Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: By Days since enrollment in DailyPay: <30 days: n=33, 30-59 days: n=756, 60-89 days: n=1058, >90 days: n=8203

# Newer users are more likely to agree that DailyPay makes them more satisfied with their job, more motivated, productive, and engaged

*To what extent do you agree or disagree with the following statements?*  
**% WHO STRONGLY AGREE OR AGREE**

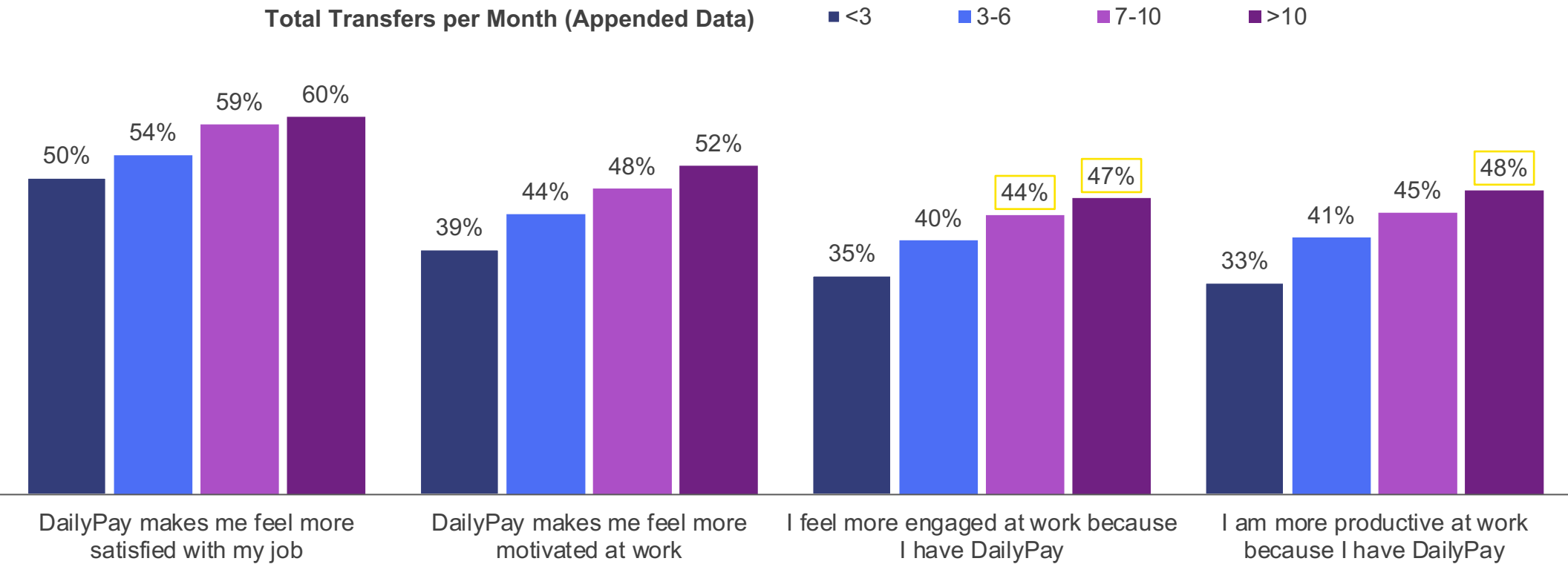


Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: By length of time enrolled: < 6 months: n=3288, 6 months-<1 year: n=1532, 1 year-<1.5 years: n=1643, 1.5 years or more

# Users who make more transfers per month are more likely to agree they are more satisfied, motivated, engaged, and productive at work because of DailyPay

To what extent do you agree or disagree with the following statements?  
% STRONGLY AGREE OR AGREE



Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

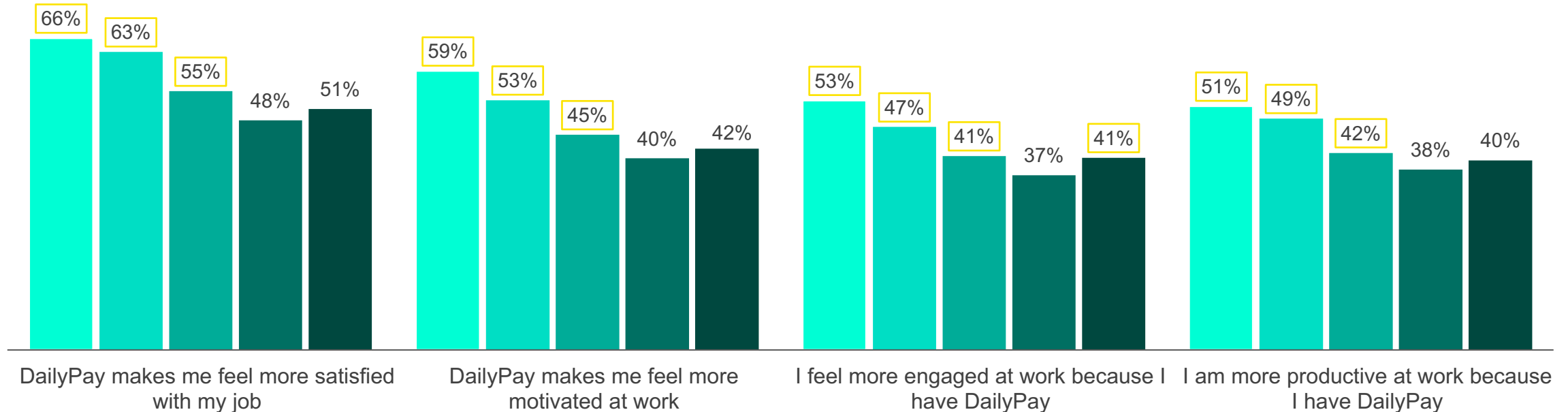
Base: By Total transfers per month: <3: n=1041, 3-6: n=1920, 7-10: n=1833, >10: n=5489

# Younger users are more likely to agree with positive sentiments about how DailyPay impacts their work performance and satisfaction

*To what extent do you agree or disagree with the following statements?*

**% STRONGLY AGREE OR AGREE**

Age Group (Self-reported data) ■ 18-24 ■ 25-34 ■ 35-44 ■ 45-54 ■ 55+



Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: By Age group: 18-24: n=1485, 25-34: n=3032, 35-44: n=2758, 45-54: n=1751, 55+: n=1115

# Non-salaried users are more likely to agree DailyPay makes them more satisfied with their job & more motivated, productive, and/or engaged

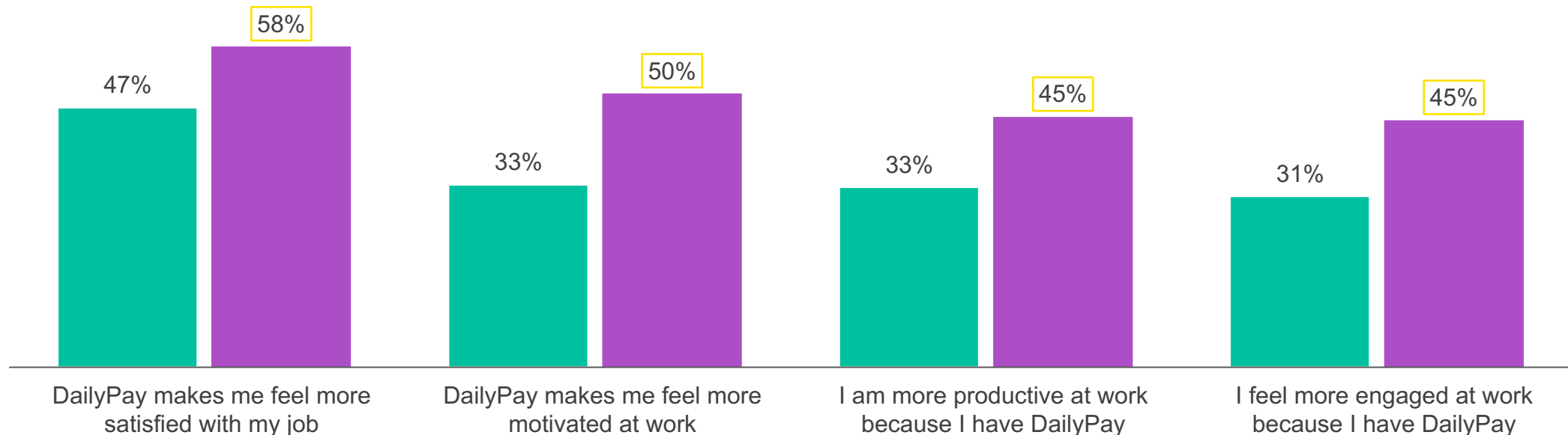
*To what extent do you agree or disagree with the following statements?*

**% WHO STRONGLY AGREE OR AGREE**

Compensation Type (Self-reported data)

■ Salaried

■ Hourly or Other



*Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.*

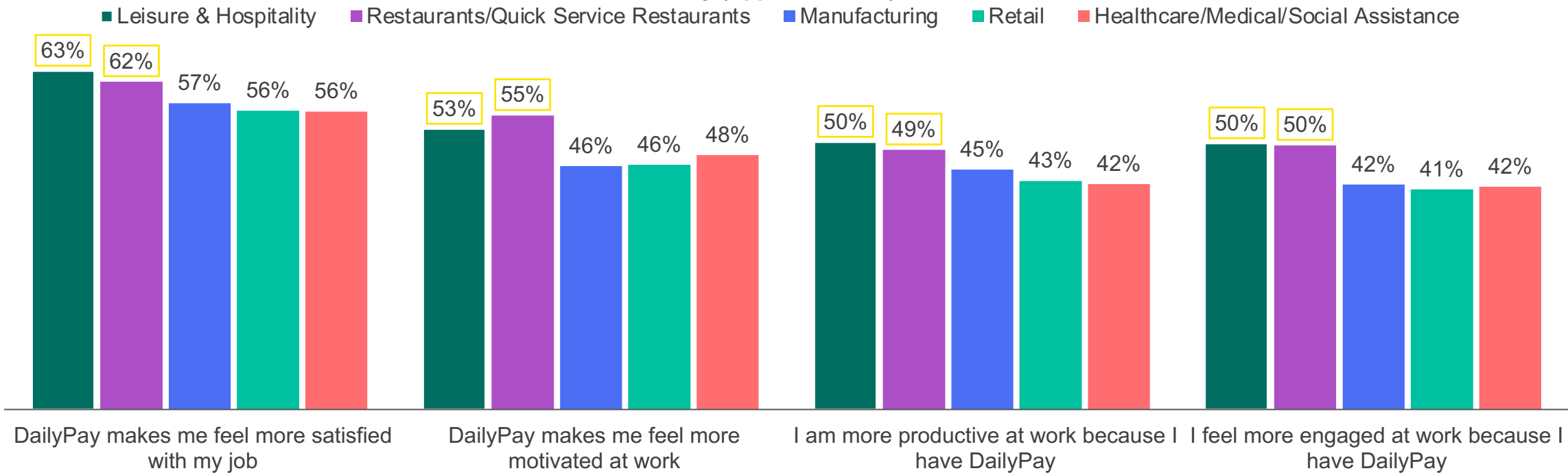
Base: Among all respondents by compensation type: Salaried: n=609, Hourly or Other: n=9674

# Restaurant and leisure/hospitality workers are more likely to agree that DailyPay improves their job satisfaction, motivation, productivity, and engagement

Among respondents who did each activity regularly or occasionally before using DailyPay  
*To what extent do you agree or disagree with the following statements?*

**% WHO STRONGLY AGREE OR AGREE**

Industry (Appended Data)



Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: Among users who fall into one of these key target industries: Retail: n=2731, Restaurants/Quick Service Restaurants: n=821, Leisure & Hospitality: n=367, Healthcare/Medical/Social Assistance: n=2456, Manufacturing: n=322

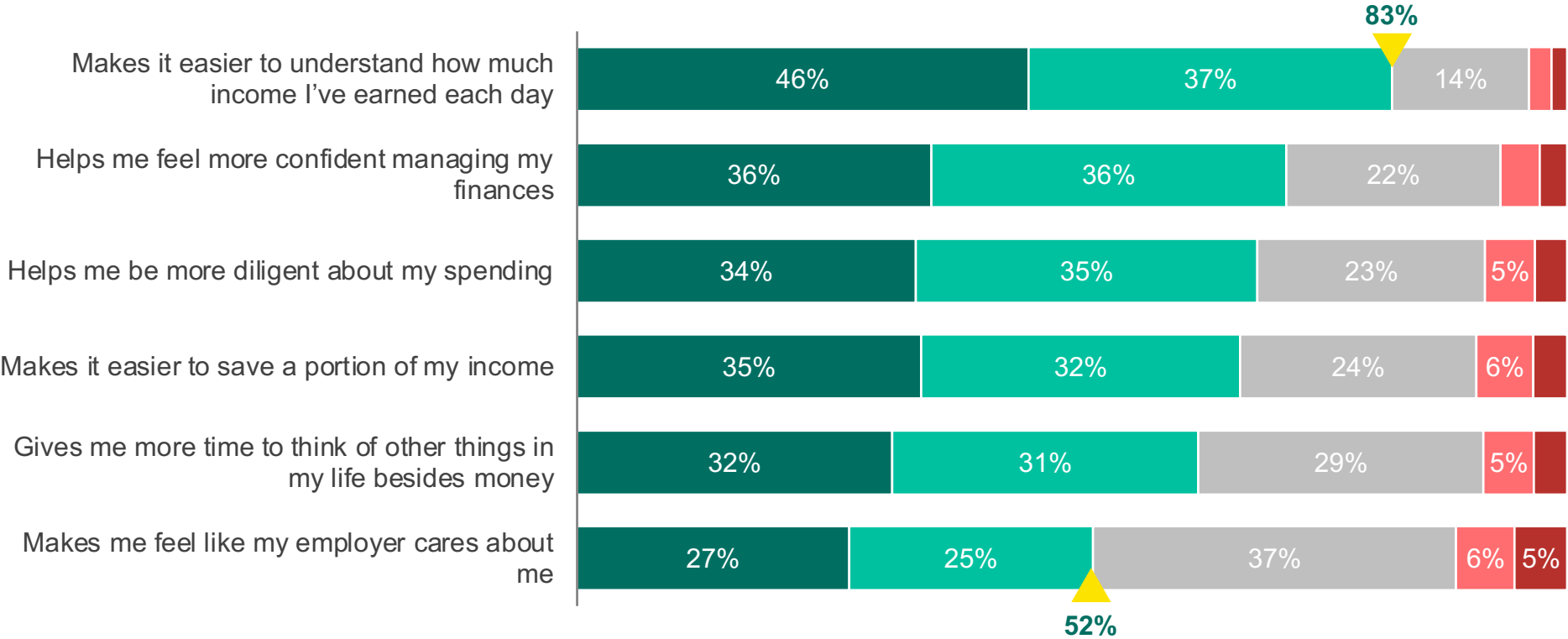
# 8-in-10 agree DailyPay helps them understand how much they earn daily; over half say DailyPay makes them feel like their employer cares about them

To what extent do you agree or disagree that DailyPay is helping you with the following things?

Strongly Agree   Agree   Neither Agree nor Disagree   Disagree   Strongly Disagree

**Significant Differences Found by:**

- Days since enrollment
- Length of time enrolled
- Transfers per month
- Age
- Compensation type

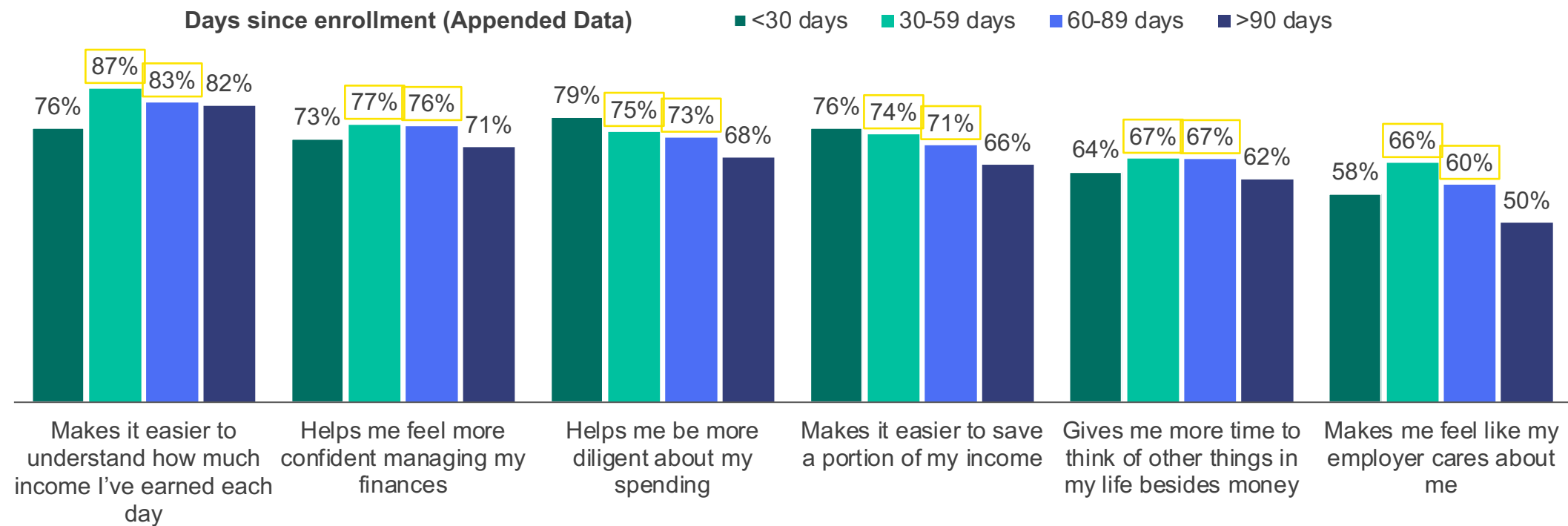


Data labels not shown for values less than 5%

Base: Total Respondents: n=10,283

# Users enrolled for 30 - 90 days are more likely to agree DailyPay improves several factors of financial wellness and makes them feel their employer cares

*To what extent do you agree or disagree that DailyPay is helping you with the following things?*  
**% STRONGLY AGREE OR AGREE**

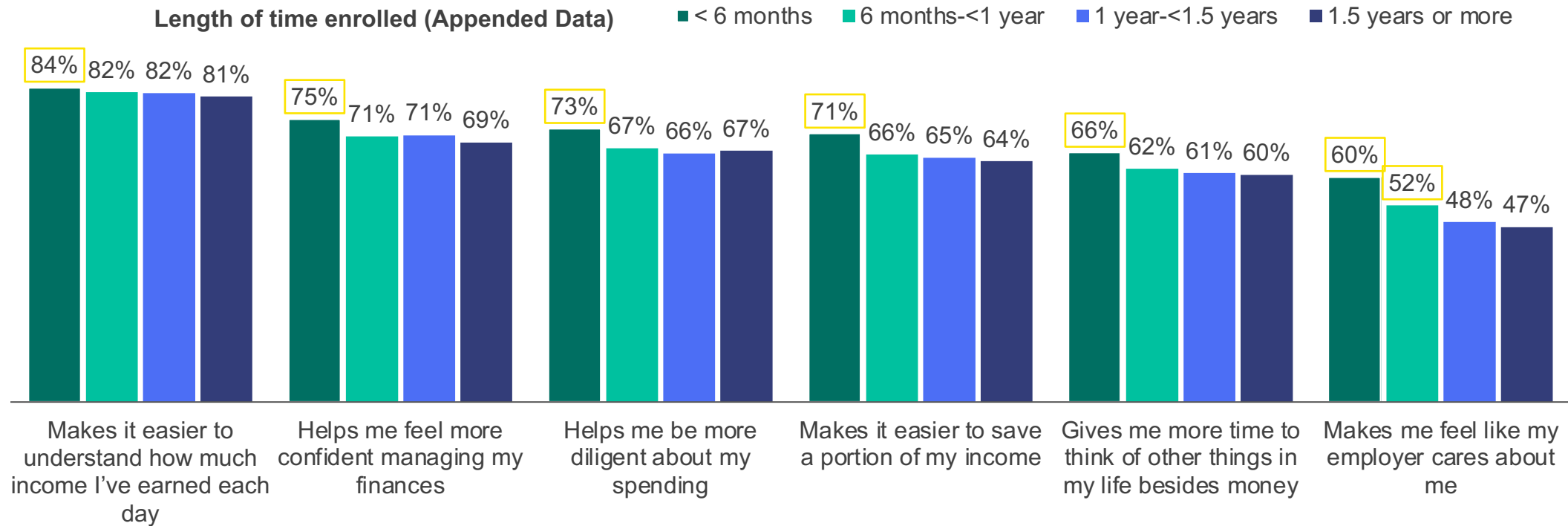


*Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.*

Base: By Days since enrollment in DailyPay: <30 days: n=33, 30-59 days: n=756, 60-89 days: n=1058, >90 days: n=8203

# Newer users are more likely to agree DailyPay improves several factors of financial wellness and makes them feel their employer cares

*To what extent do you agree or disagree that DailyPay is helping you with the following things?*  
**% WHO STRONGLY AGREE OR AGREE**



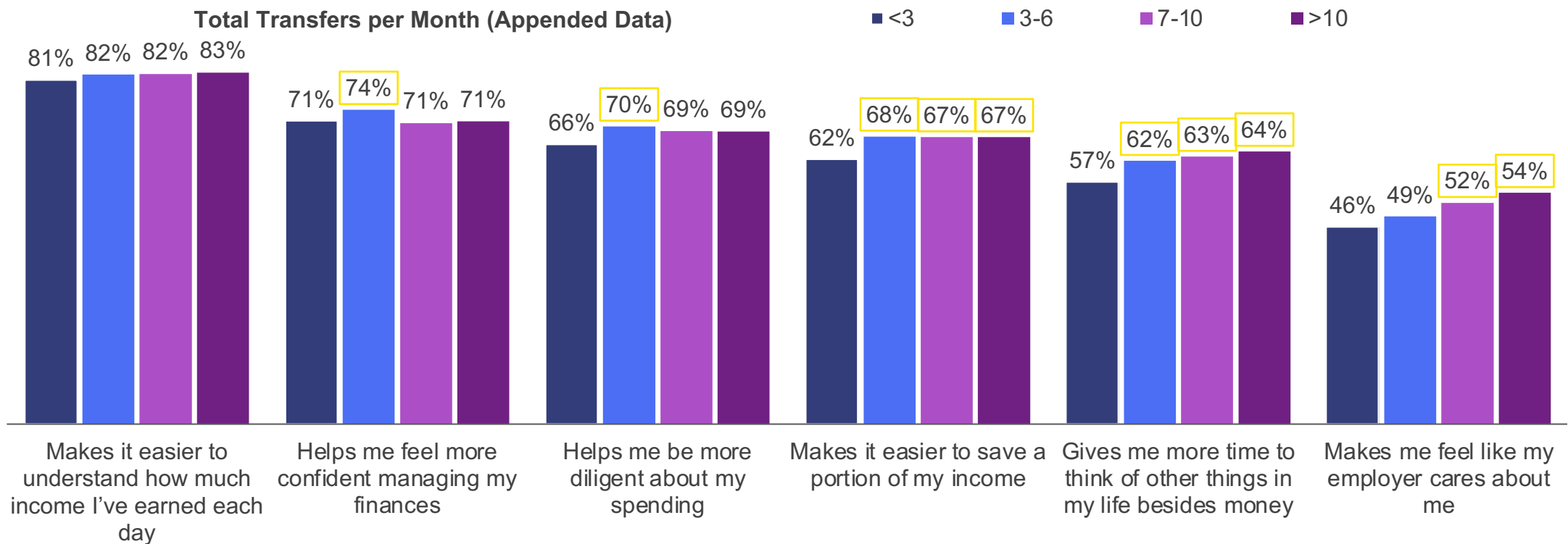
Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: By length of time enrolled: < 6 months: n=3288, 6 months-<1 year: n=1532, 1 year-<1.5 years: n=1643, 1.5 years or more

# Users who make more transfers per month are more likely to agree DailyPay makes it easier to save, gives them time to think of other things, and makes them feel their employer cares

To what extent do you agree or disagree that DailyPay is helping you with the following things?

% STRONGLY AGREE OR AGREE



Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: By Total transfers per month: <3: n=1041, 3-6: n=1920, 7-10: n=1833, >10: n=5489

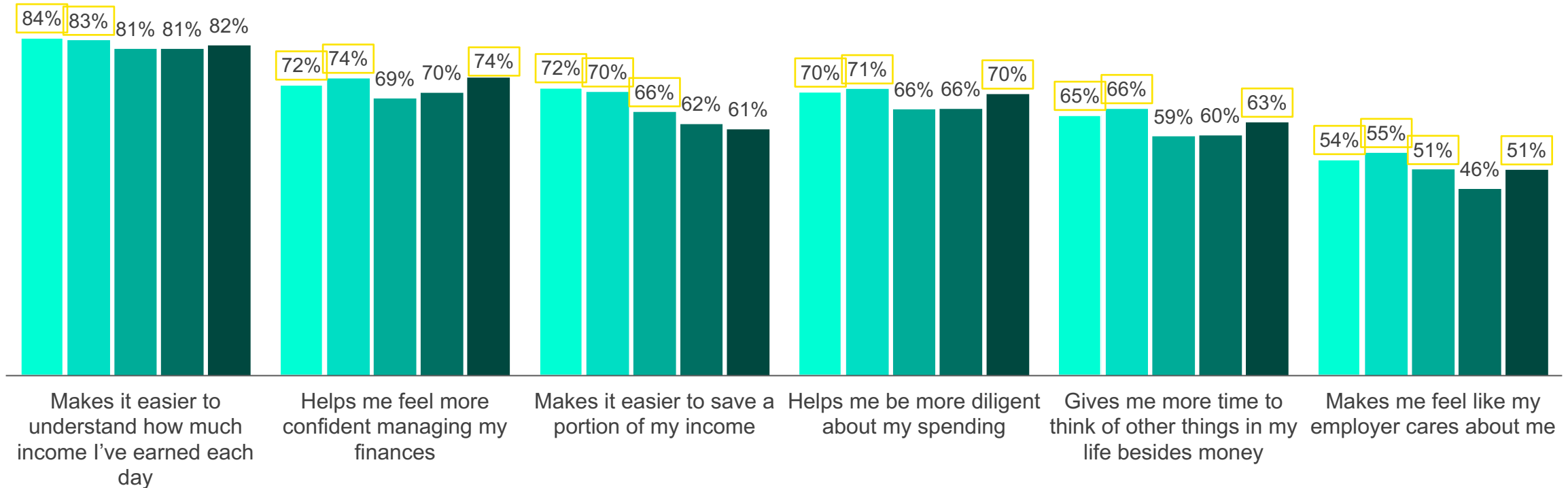
# Age groups differ on how much they think DailyPay helps them with financial wellness and makes them feel their employer cares

*To what extent do you agree or disagree that DailyPay is helping you with the following things?*

**% STRONGLY AGREE OR AGREE**

**Age Group (Self-reported data)**

■ 18-24 ■ 25-34 ■ 35-44 ■ 45-54 ■ 55+

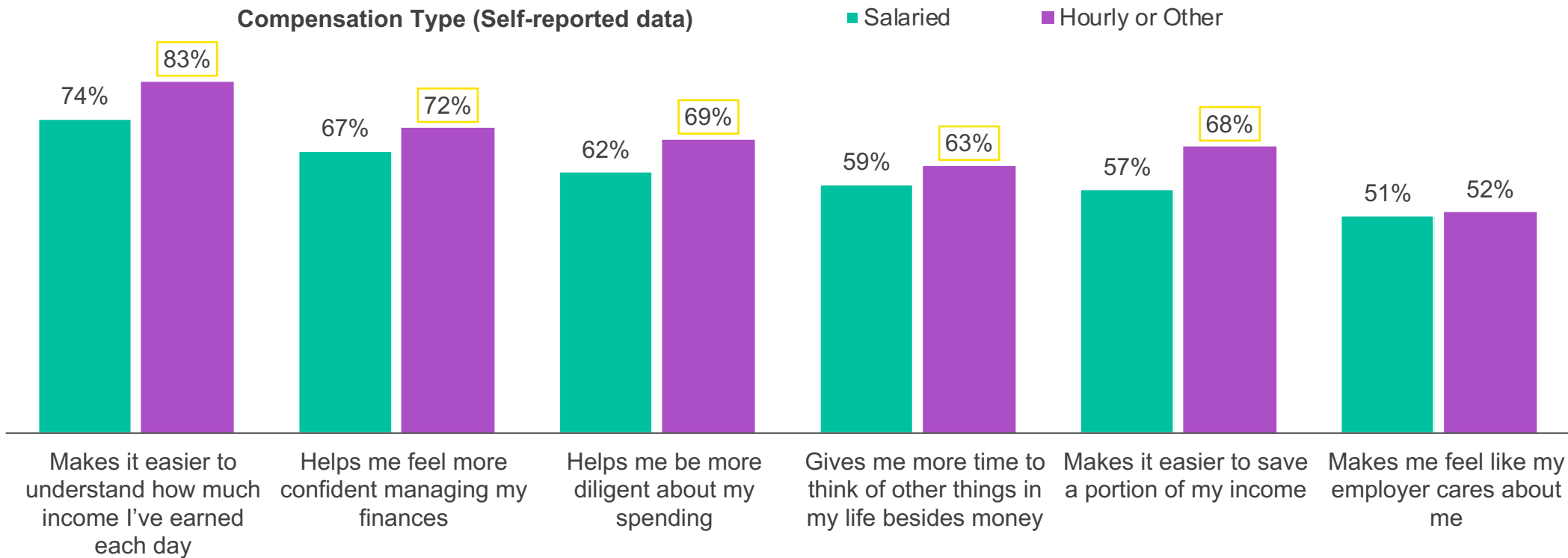


Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: By Age group: 18-24: n=1485, 25-34: n=3032, 35-44: n=2758, 45-54: n=1751, 55+: n=1115

# Non-salaried users are more likely to agree DailyPay makes it easier to manage many aspects of financial wellness

*To what extent do you agree or disagree that DailyPay is helping you with the following things?*  
**% WHO STRONGLY AGREE OR AGREE**



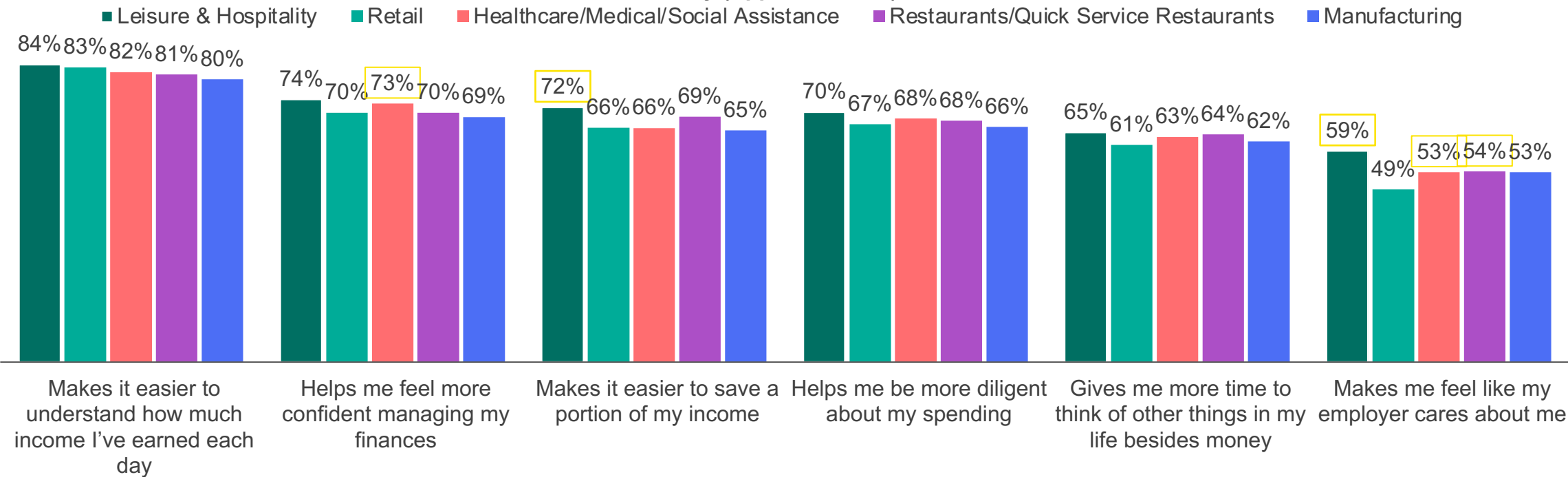
*Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.*

Base: Among all respondents by compensation type: Salaried: n=609, Hourly or Other: n=9674

# Users across industries widely agree that DailyPay improves various aspects of their financial wellness

To what extent do you agree or disagree that DailyPay is helping you with the following things?  
**% WHO STRONGLY AGREE OR AGREE**

Industry (Appended Data)



Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: Among users who fall into one of these key target industries: Retail: n=2731, Restaurants/Quick Service Restaurants: n=821, Leisure & Hospitality: n=367, Healthcare/Medical/Social Assistance: n=2456, Manufacturing: n=322

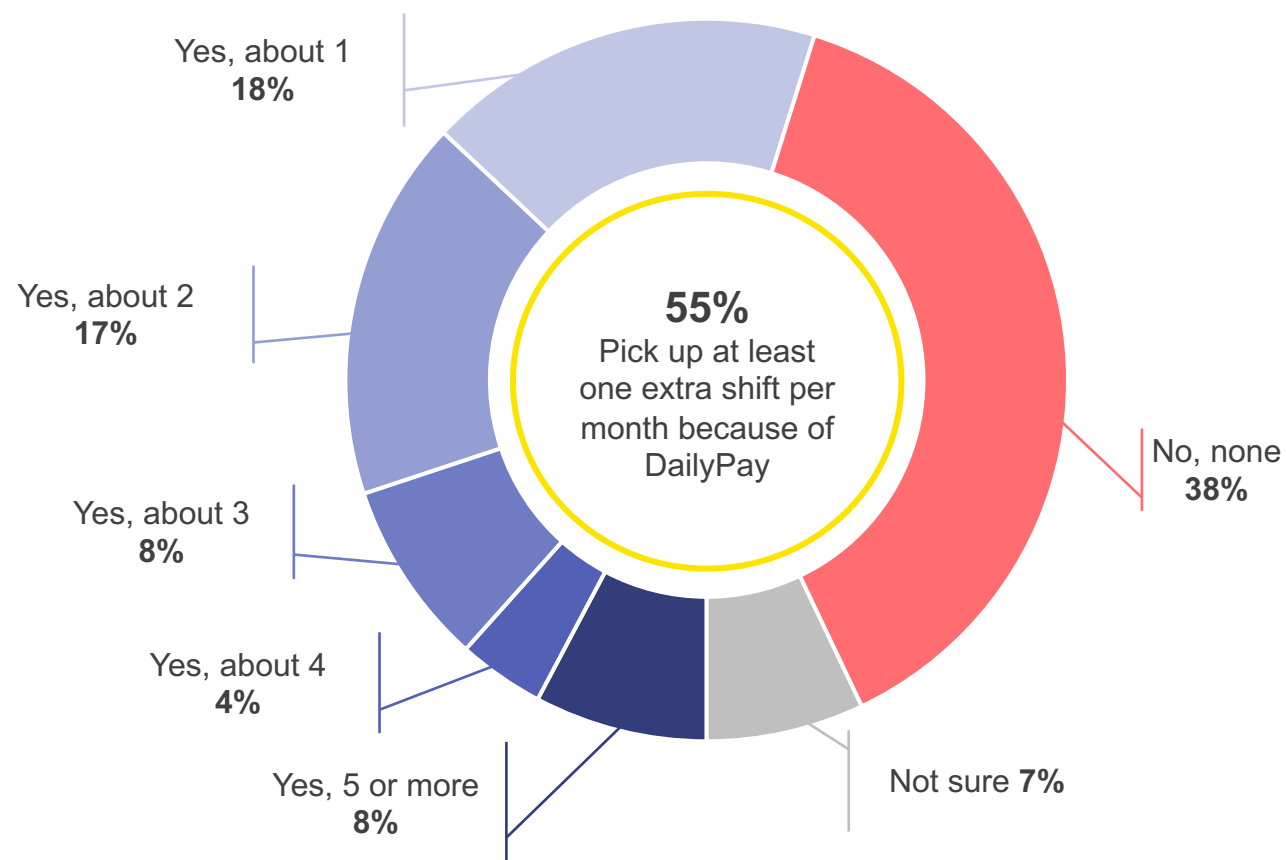
# Over half of DailyPay users pick up at least one extra shift per week because they know they can access earned pay ahead of payday

*In a typical month, do you take any extra shifts based on knowing that you can access your earned pay ahead of scheduled paydays?*

On average, users who pick up extra shifts per week because of DailyPay pick up **2.4** extra shifts per month

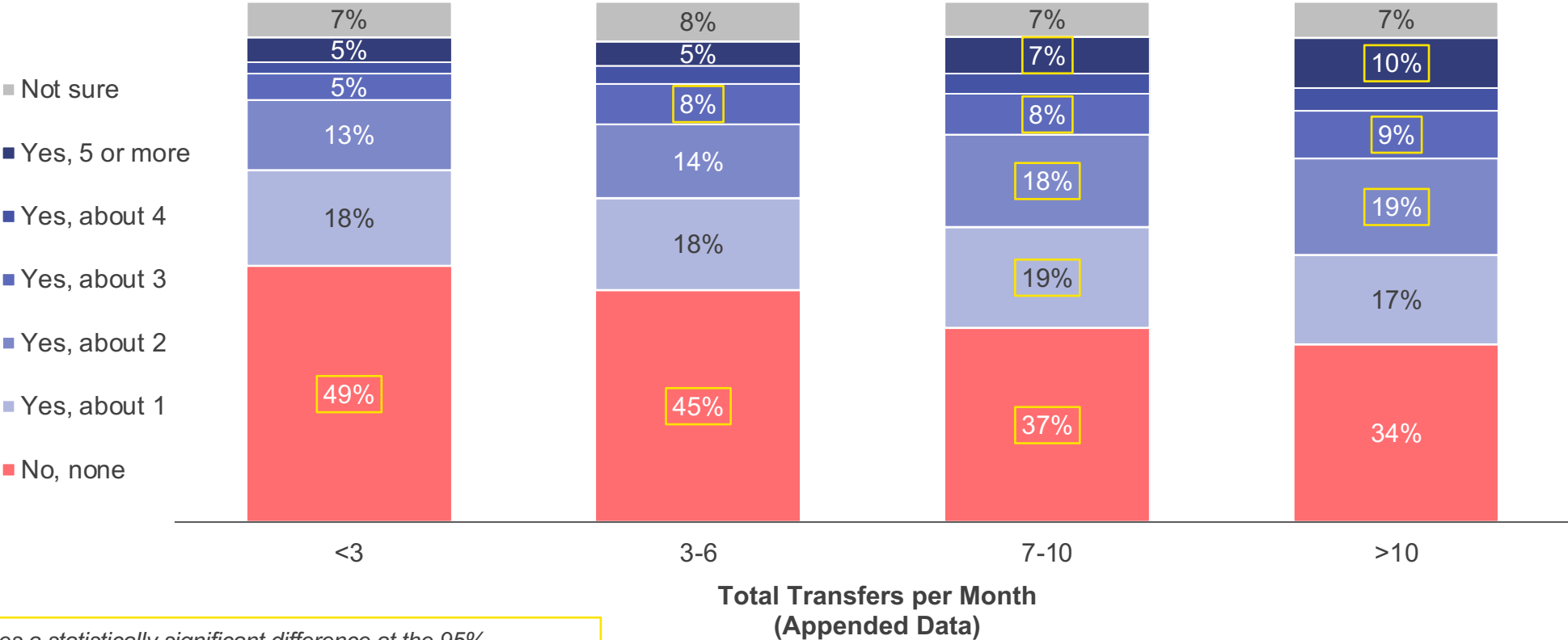
## Significant Differences Found:

- Users who make more transfers are more likely to pick up shifts
- Younger users are more likely to pick up shifts
- Non-salaried users are more likely to pick up shifts
- Restaurant workers are more likely to pick up shifts



# Users who make more transfers per month are more likely to pick up extra shifts knowing they can access their wages ahead of payday

*In a typical month, do you take any extra shifts based on knowing that you can access your earned pay ahead of scheduled payday?*



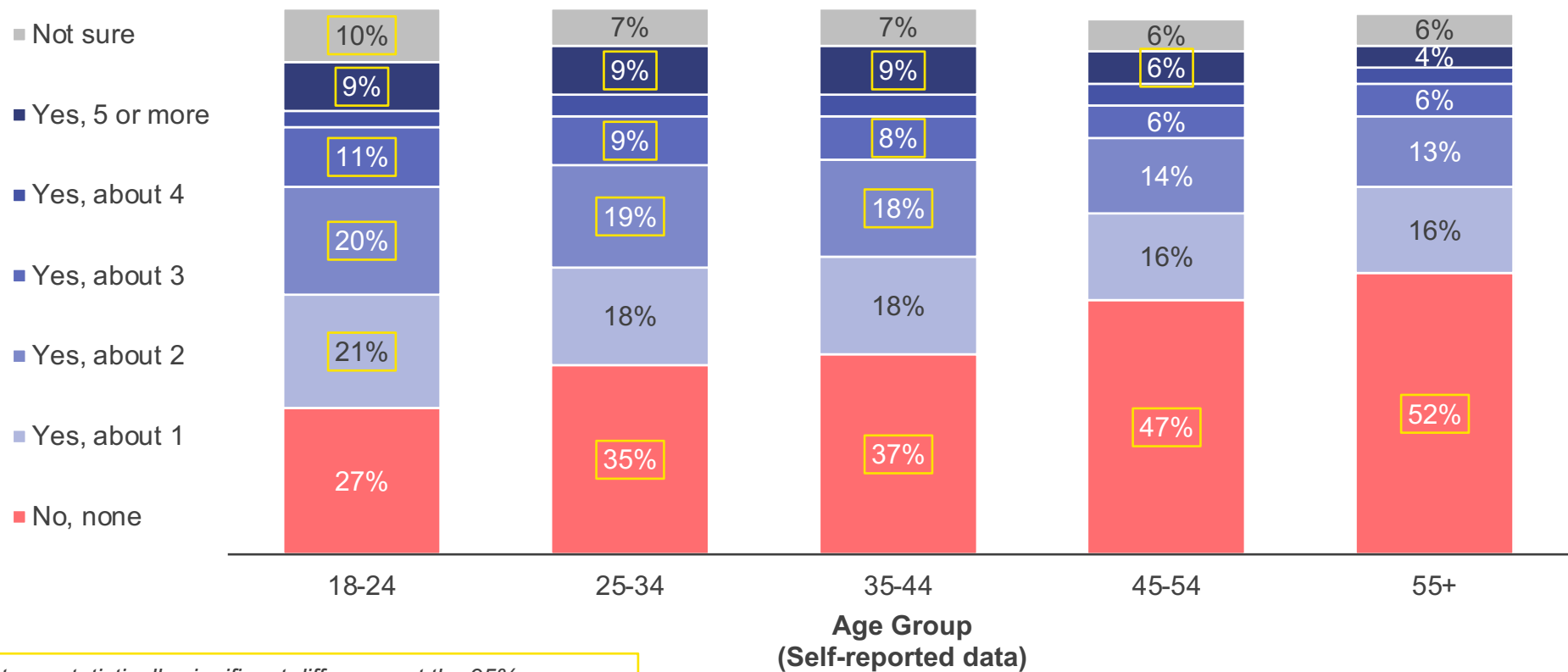
Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Labels not shown for values less than 5%

Base: By Total transfers per month: <3: n=1041, 3-6: n=1920, 7-10: n=1833, >10: n=5489

# Younger users are more likely to pick up shifts knowing they have earned wage access

*In a typical month, do you take any extra shifts based on knowing that you can access your earned pay ahead of scheduled paydays?*



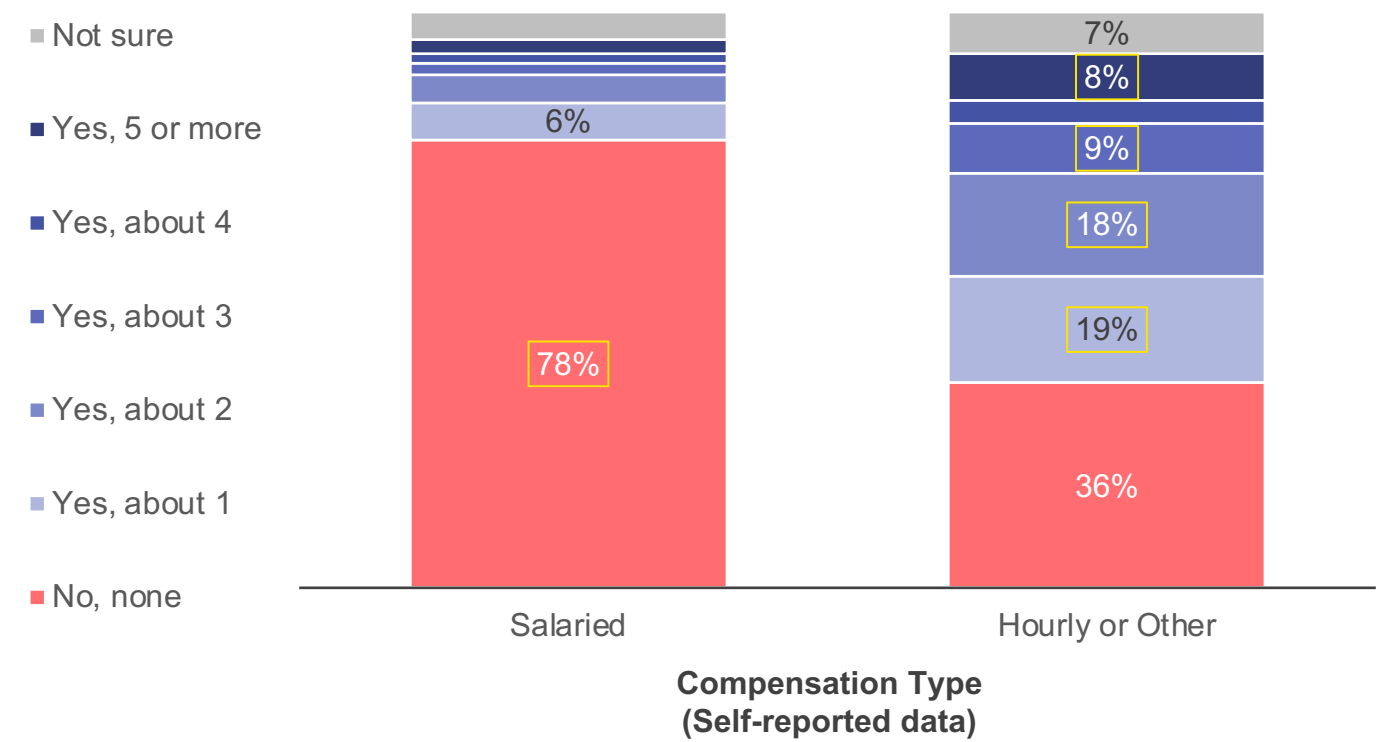
Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Labels not shown for values less than 5%

Base: By Age group: 18-24: n=1485, 25-34: n=3032, 35-44: n=2758, 45-54: n=1751, 55+: n=1115

# Non-salaried users are more motivated to pick up shifts due to earned wage access

*In a typical month, do you take any extra shifts based on knowing that you can access your earned pay ahead of scheduled paydays?*



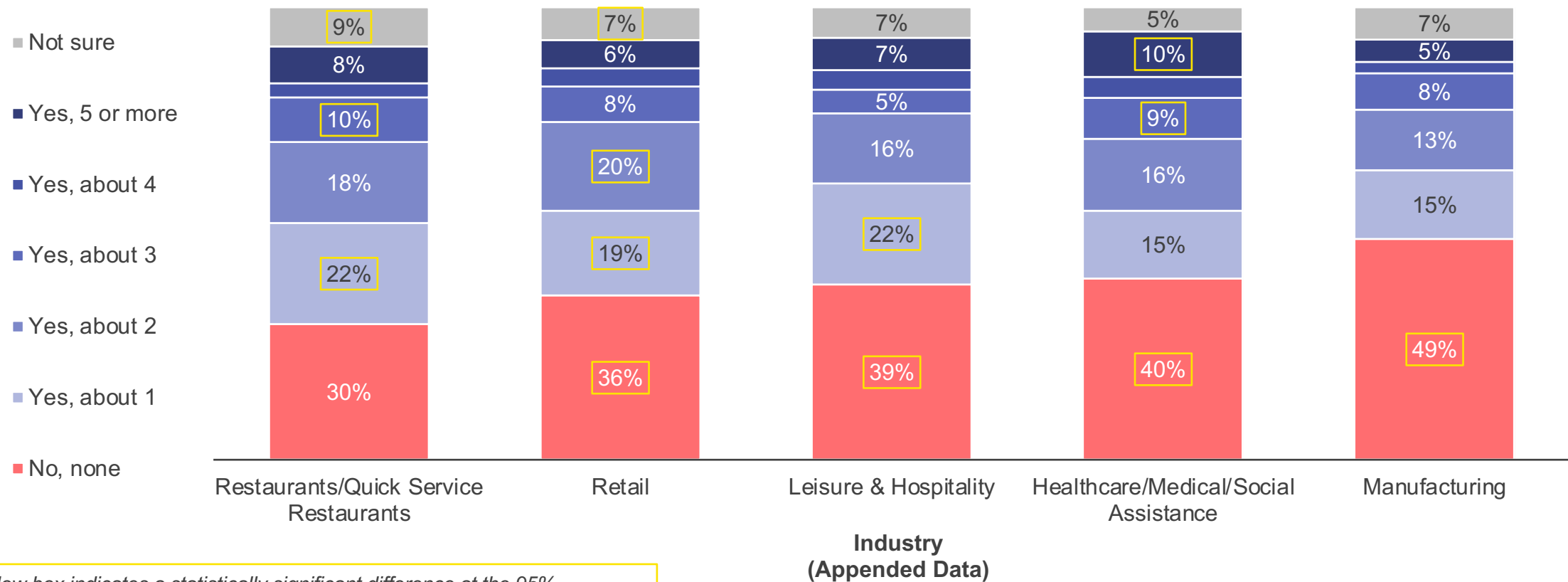
Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Labels not shown for values less than 6%

Base: Among all respondents by compensation type: Salaried: n=609, Hourly or Other: n=9674

# Restaurant workers are most likely to pick up extra shifts because they have earned wage access

*In a typical month, do you take any extra shifts based on knowing that you can access your earned pay ahead of scheduled paydays?*



Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Labels not shown for values less than 5%

Base: Among users who fall into one of these key target industries: Retail: n=2731, Restaurants/Quick Service Restaurants: n=821, Leisure & Hospitality: n=367, Healthcare/Medical/Social Assistance: n=2456, Manufacturing: n=322

# Over half say having earned wage access has improved their opinion of their employer

*How, if at all, has having access to your earned pay before scheduled paydays changed your opinion of your employer?*

It has made me feel somewhat more positive about my employer  
**19%**

It has had no impact on my opinion of my employer  
**41%**

It has made me feel somewhat more negative towards my employer  
**1%**

It has made me feel much more negative towards my employer  
**1%**

It has made me feel much more positive about my employer  
**38%**

**57%**  
Say DailyPay has improved their opinion of their employer

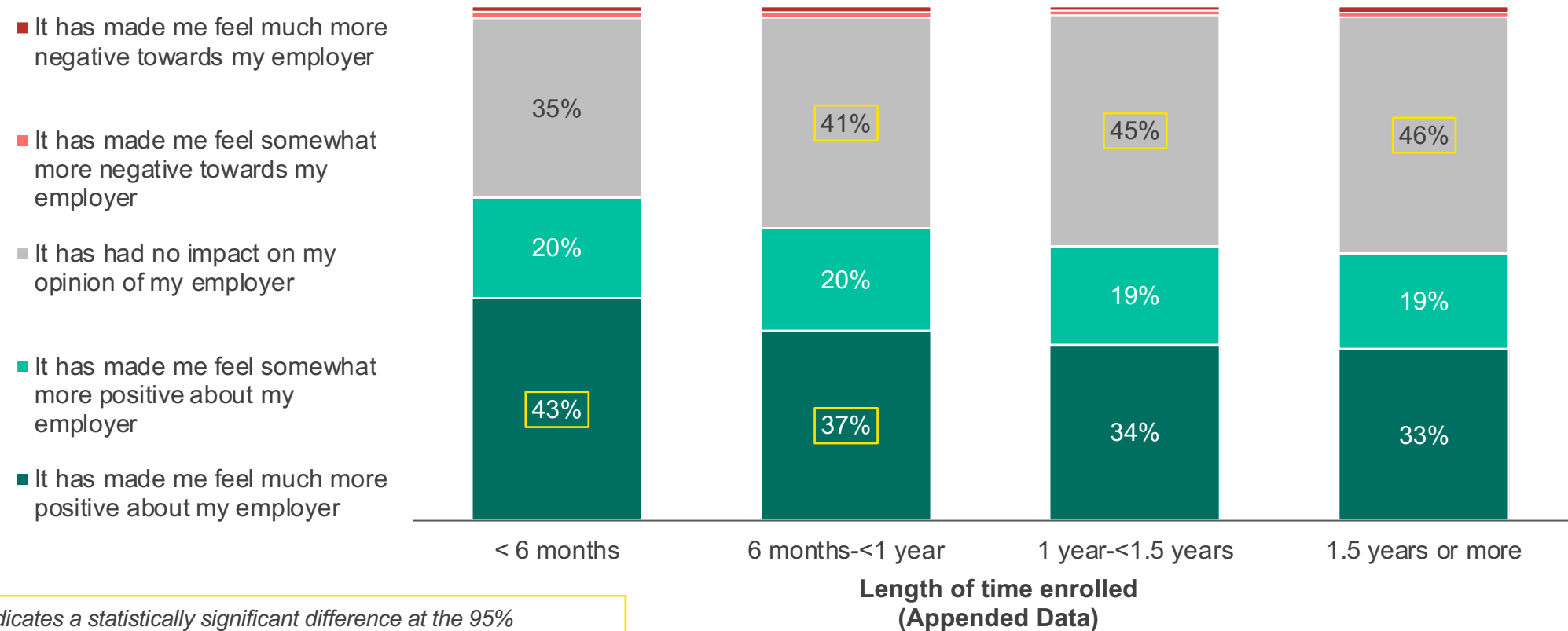
## Significant Differences Found:

- *Younger users are more likely to feel much more positive about their employer due to EWA*
- *Non-salaried users are more likely to feel more positive about their employer due to EWA*
- *Leisure & hospitality and restaurant workers are more likely to feel more positive about their employer due to EWA*

Base: Total Respondents: n=10,283

# Users of 6 months or less are more likely to report feeling much more positive about their employer than more tenured users

*How, if at all, has having access to your earned pay before scheduled paydays changed your opinion of your employer?*

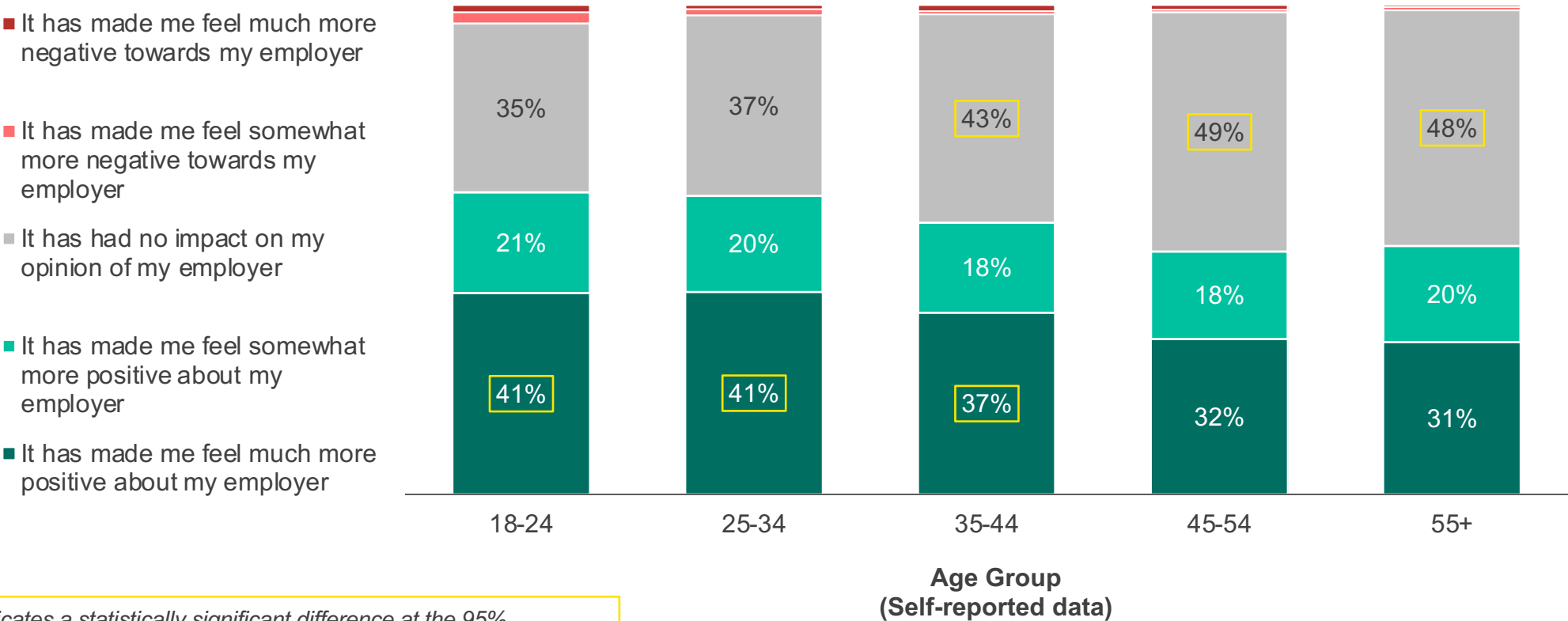


Labels not shown for values less than 5%

Base: By length of time enrolled: < 6 months: n=3288, 6 months-<1 year: n=1532, 1 year-<1.5 years: n=1643, 1.5 years or more

# Younger users are more likely to say earned wage access has made them feel much more positive about their employer

*How, if at all, has having access to your earned pay before scheduled paydays changed your opinion of your employer?*



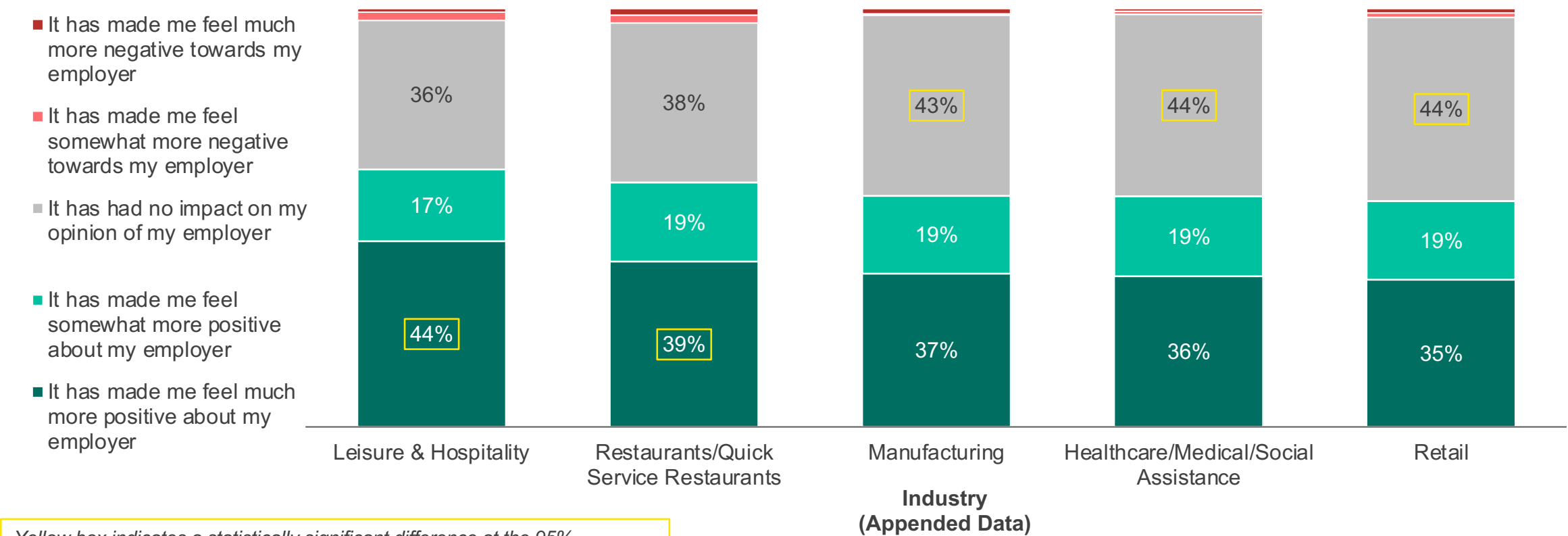
Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Labels not shown for values less than 5%

Base: By Age group: 18-24: n=1485, 25-34: n=3032, 35-44: n=2758, 45-54: n=1751, 55+: n=1115

# Leisure & hospitality workers and restaurant workers are more likely to report having earned wage access has made them feel much more positive about their employer

*How, if at all, has having access to your earned pay before scheduled paydays changed your opinion of your employer?*

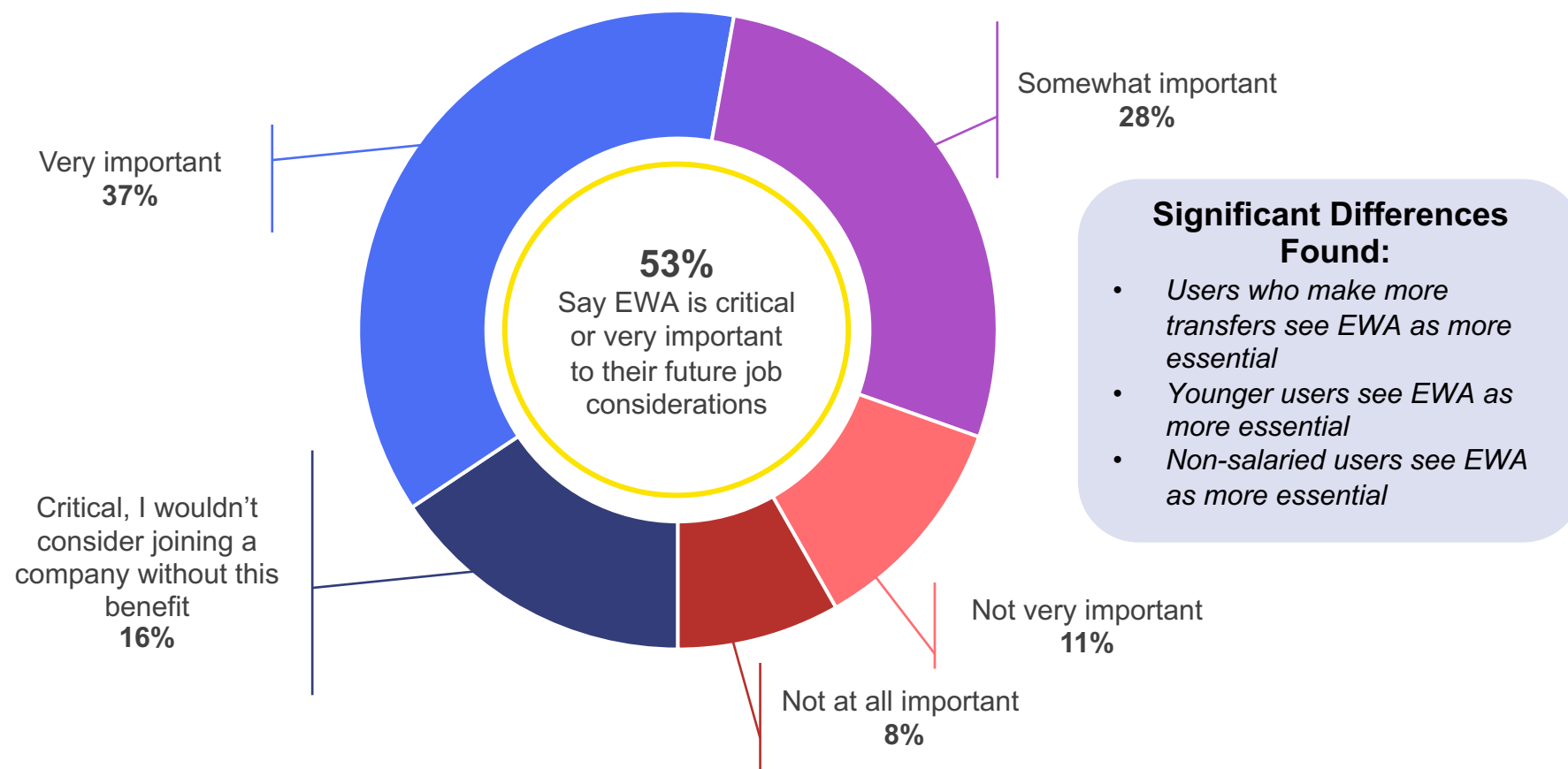


Labels not shown for values less than 5%

Base: Among users who fall into one of these key target industries: Retail: n=2731, Restaurants/Quick Service Restaurants: n=821, Leisure & Hospitality: n=367, Healthcare/Medical/Social Assistance: n=2456, Manufacturing: n=322

# Earned wage access is critical or very important to their future job considerations for over half

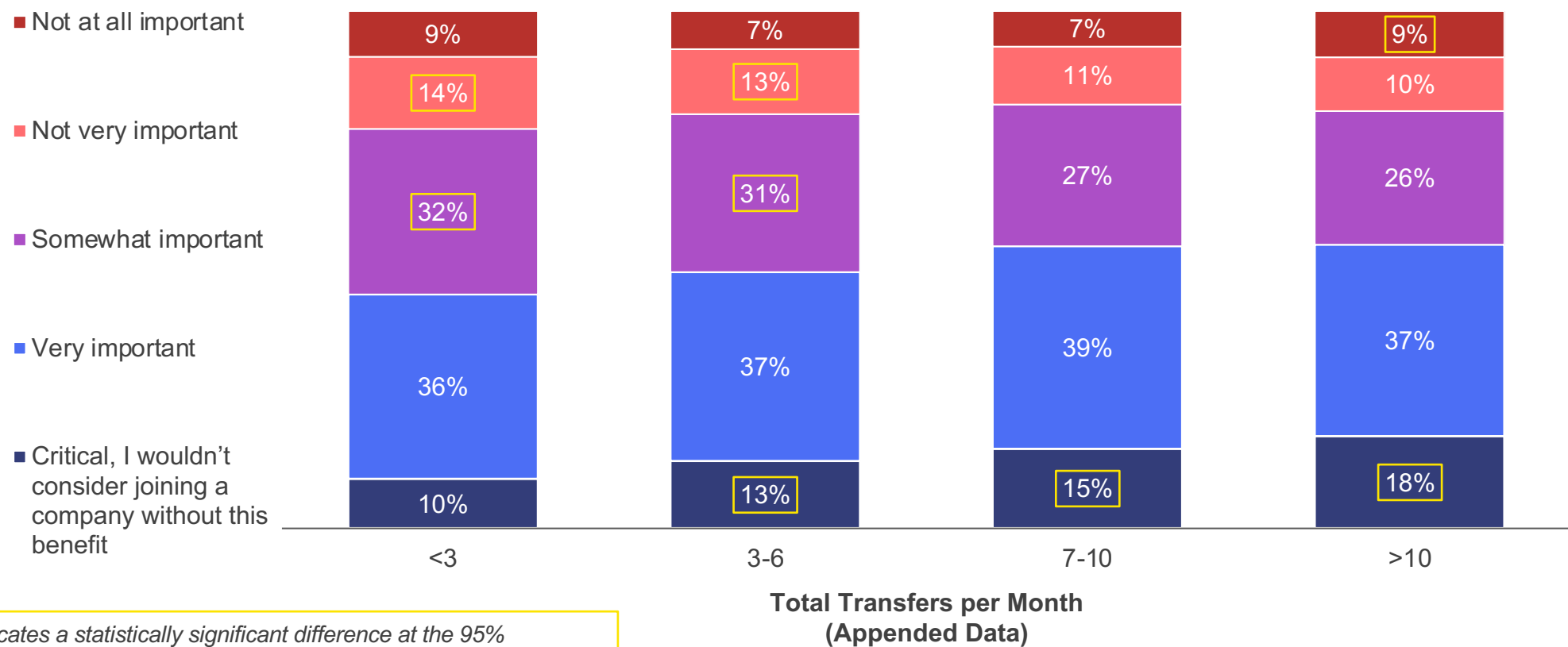
*If you were looking for a new job, how important would it be to you that a new employer offered the ability to access your earned pay ahead of scheduled paydays?*



Base: Total Respondents: n=10,283

# Users who make at least 3 transfers per month are more likely to say earned wage access is critical to future job prospects

*If you were looking for a new job, how important would it be to you that a new employer offered the ability to access your earned pay ahead of scheduled paydays?*

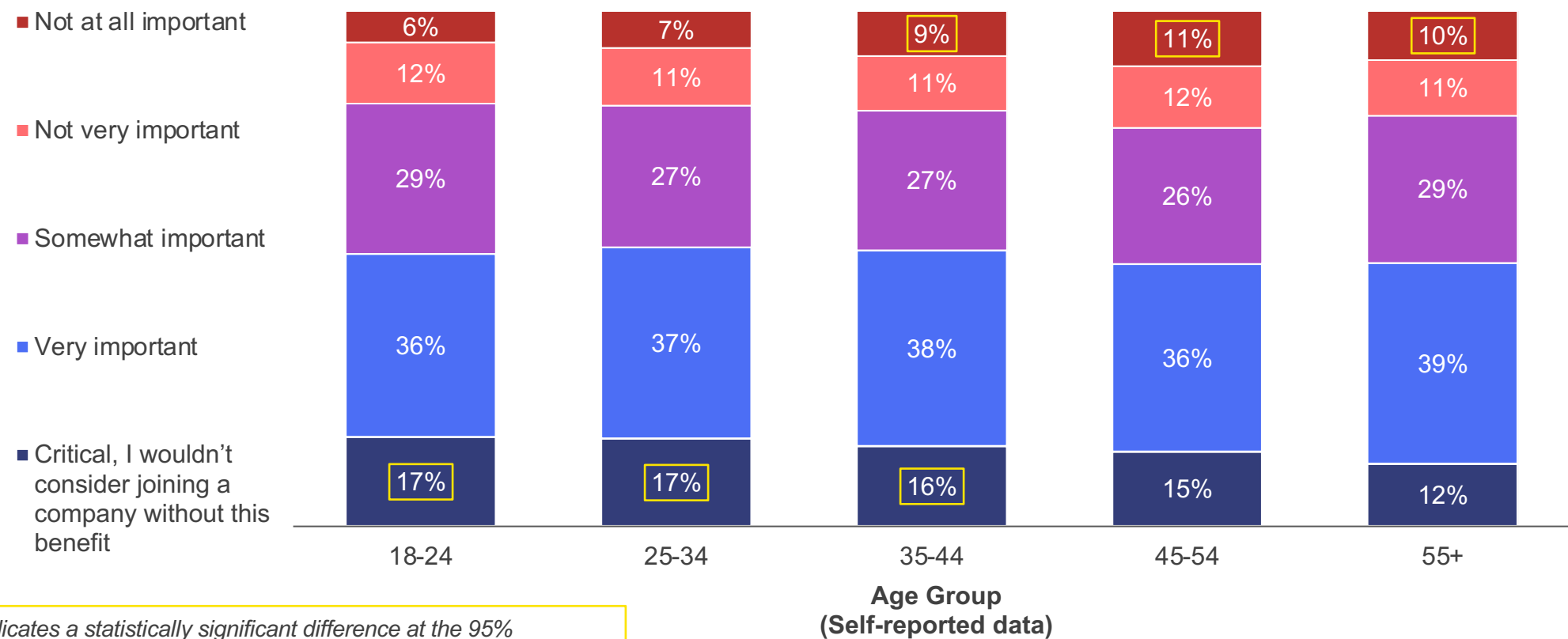


Labels not shown for values less than 5%

Base: By Total transfers per month: <3: n=1041, 3-6: n=1920, 7-10: n=1833, >10: n=5489

# Younger users are more likely to consider earned wage access critical to future job prospects

*If you were looking for a new job, how important would it be to you that a new employer offered the ability to access your earned pay ahead of scheduled paydays?*



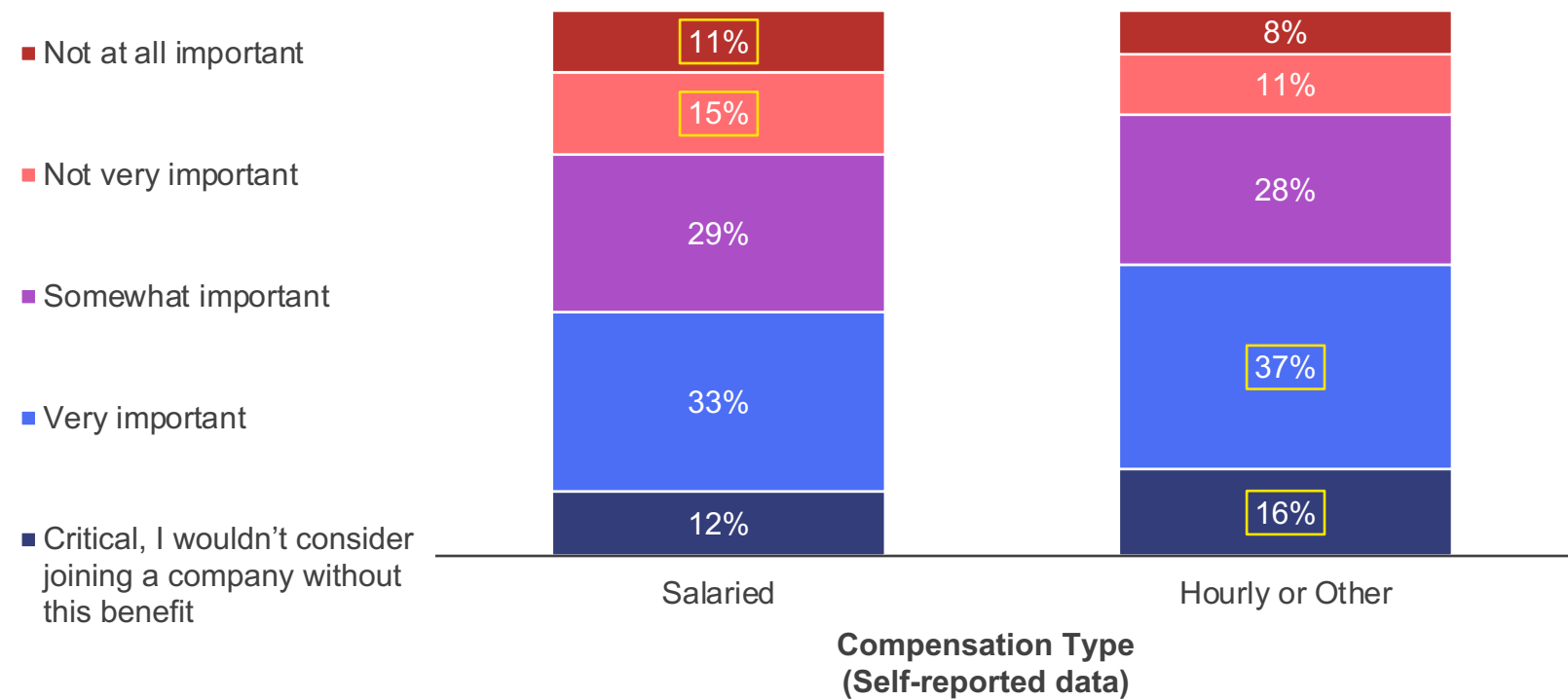
Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: By Age group: 18-24: n=1485, 25-34: n=3032, 35-44: n=2758, 45-54: n=1751, 55+: n=1115

Labels not shown for values less than 5%

# Non-salaried users are more likely to say earned wage access is critical to future job prospects

*If you were looking for a new job, how important would it be to you that a new employer offered the ability to access your earned pay ahead of scheduled paydays?*



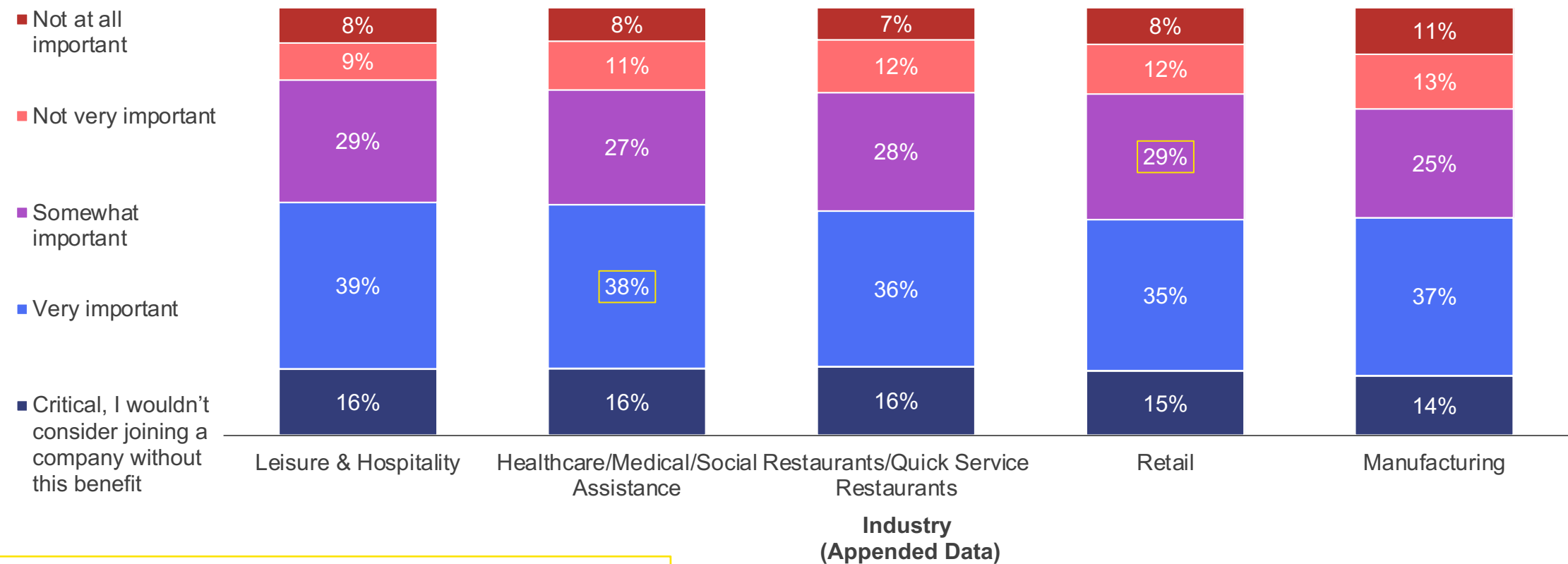
Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Labels not shown for values less than 6%

Base: Among all respondents by compensation type: Salaried: n=609, Hourly or Other: n=9674

# Earned wage access is important to the future job prospects of users across industries

*If you were looking for a new job, how important would it be to you that a new employer offered the ability to access your earned pay ahead of scheduled paydays?*



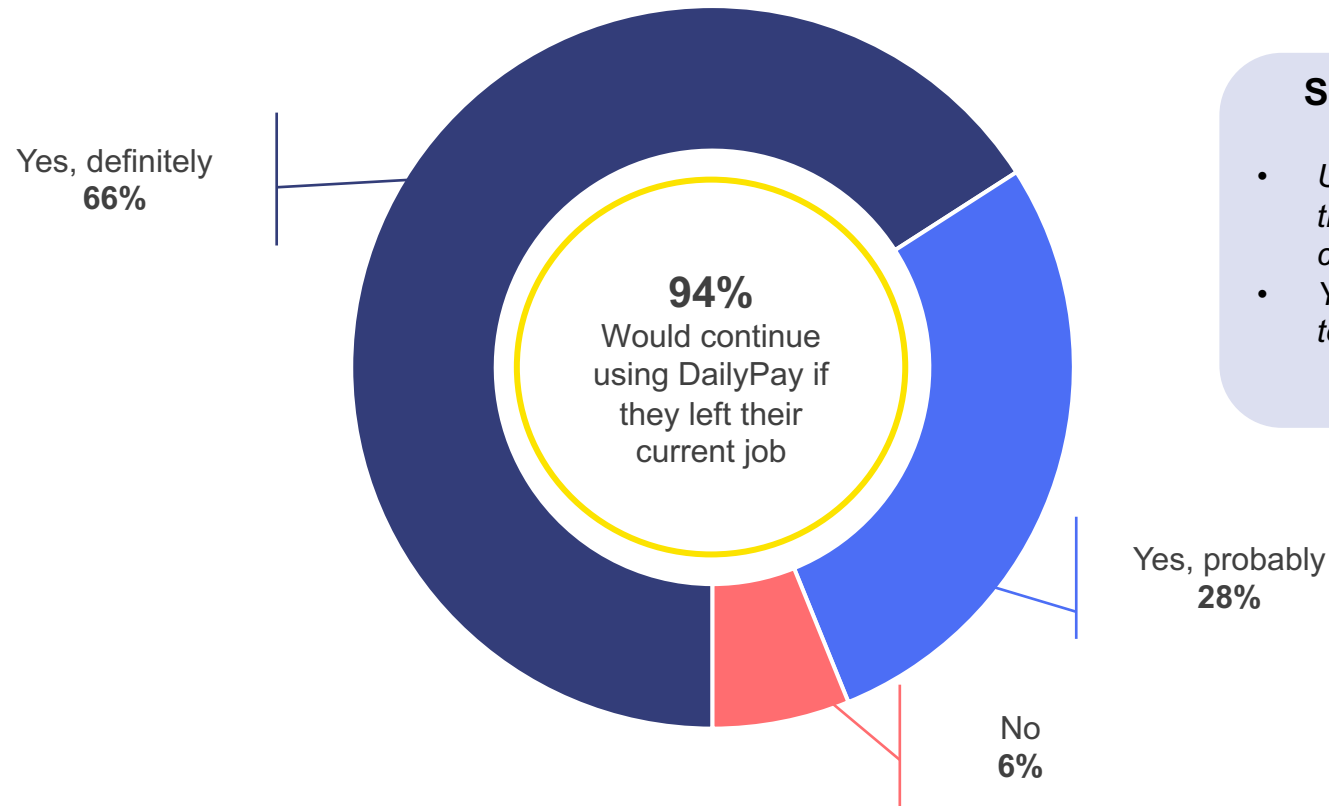
Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Labels not shown for values less than 5%

Base: Among users who fall into one of these key target industries: Retail: n=2731, Restaurants/Quick Service Restaurants: n=821, Leisure & Hospitality: n=367, Healthcare/Medical/Social Assistance: n=2456, Manufacturing: n=322

# 9-in-10 users would still likely use DailyPay after leaving their current job if they had the option

*If you had the option to continue using DailyPay, would you still use it if you left your current job/company?*

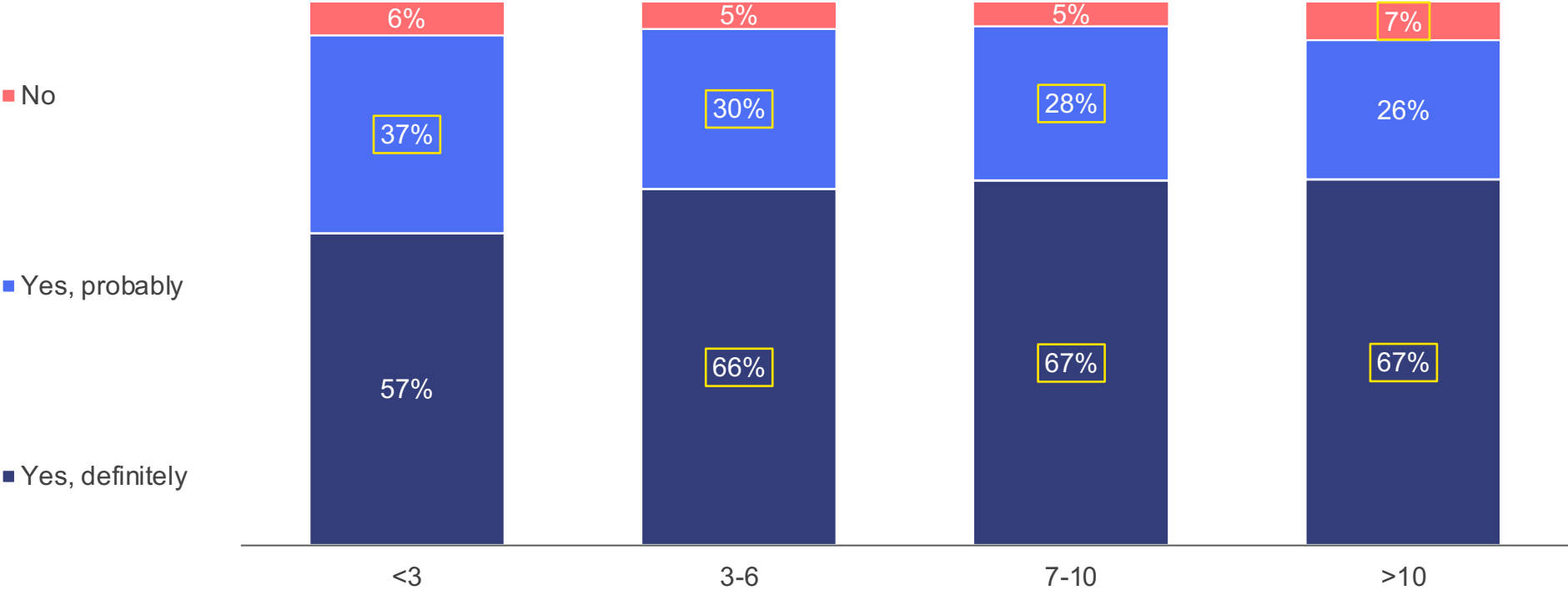


## Significant Differences Found:

- *Users who make more transfers are more likely to continue using DailyPay*
- *Younger users are more likely to continue using DailyPay*

# Users who make at least 3 transfers per month are more likely to definitely want to use DailyPay if they left their current job if they had the option

*If you had the option to continue using DailyPay, would you still use it if you left your current job/company?*



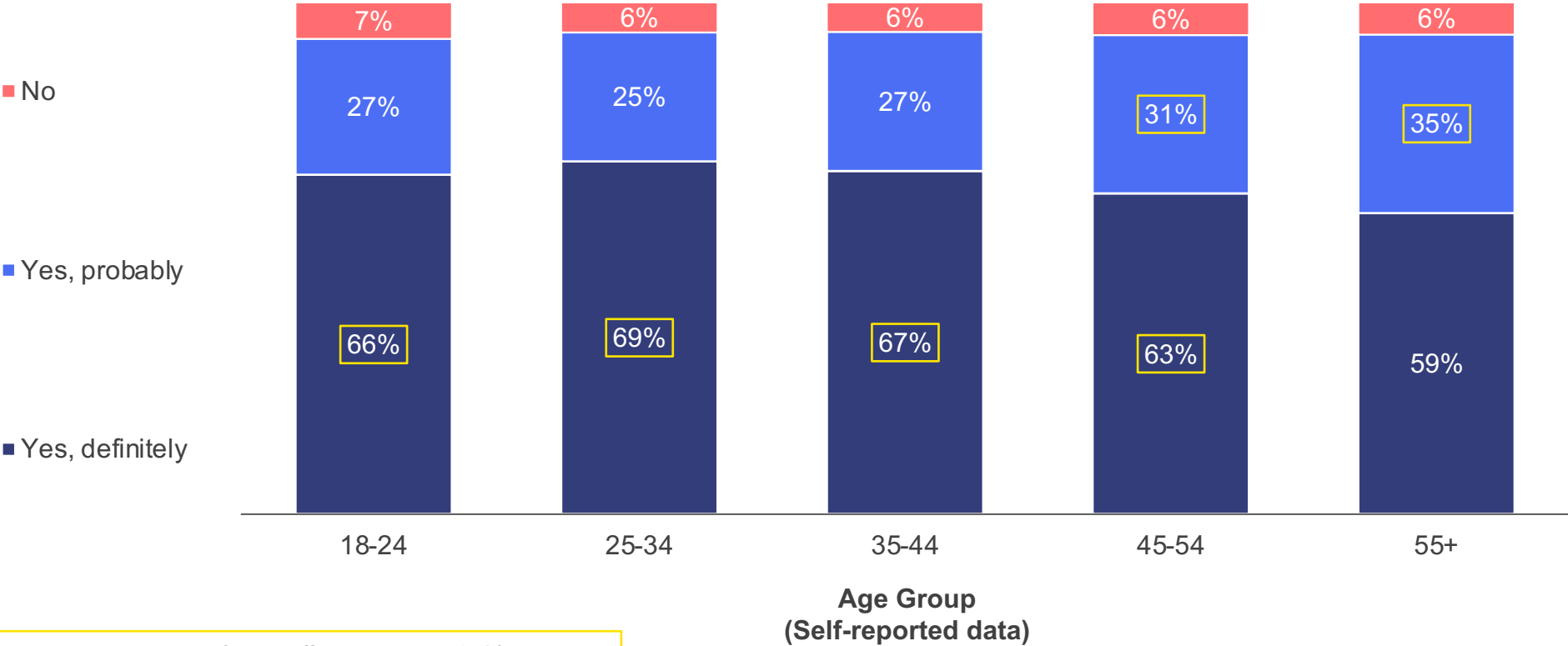
Total Transfers per Month  
(Appended Data)

Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: By Total transfers per month: <3: n=1041, 3-6: n=1920, 7-10: n=1833, >10: n=5489

# Younger users would be more likely to continue using DailyPay if they had the option after leaving their current company

*If you had the option to continue using DailyPay, would you still use it if you left your current job/company?*

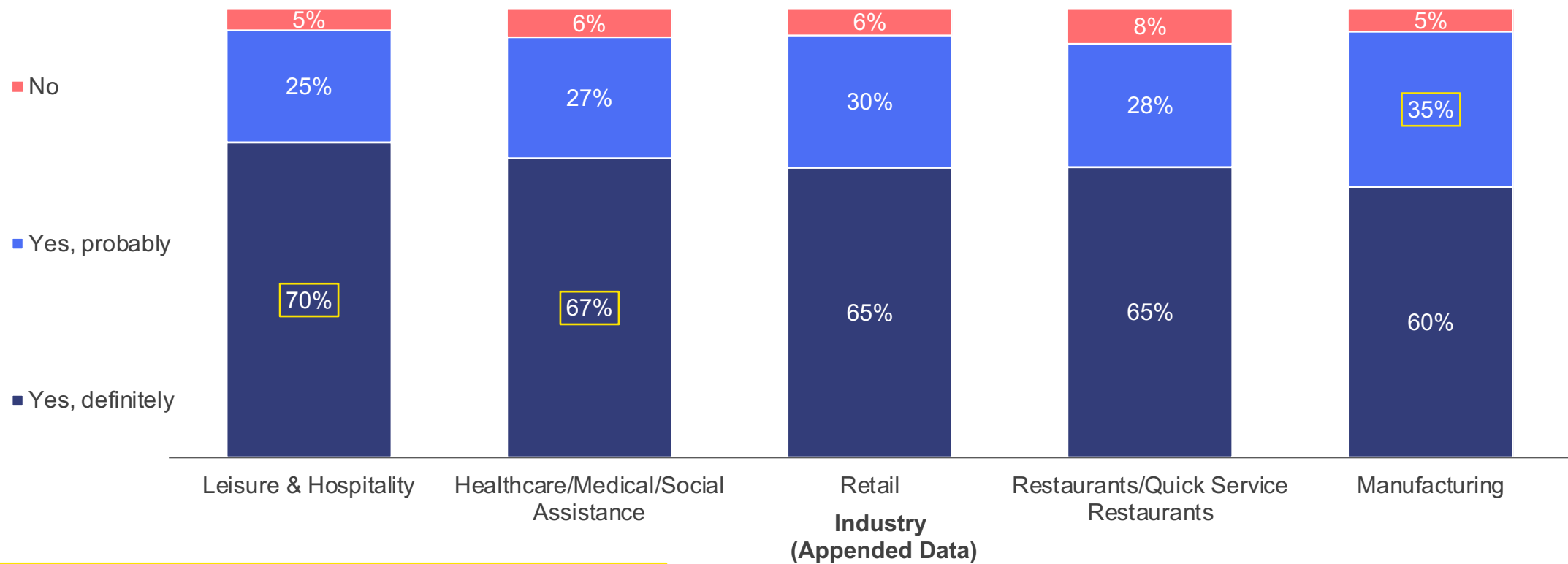


Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: By Age group: 18-24: n=1485, 25-34: n=3032, 35-44: n=2758, 45-54: n=1751, 55+: n=1115

# Leisure & hospitality and healthcare workers are most likely to say they'd definitely continue using DailyPay if they left their current company

*If you had the option to continue using DailyPay, would you still use it if you left your current job/company?*



Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: Among users who fall into one of these key target industries: Retail: n=2731, Restaurants/Quick Service Restaurants: n=821, Leisure & Hospitality: n=367, Healthcare/Medical/Social Assistance: n=2456, Manufacturing: n=322

# #leadtheway

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Research Paper

# Exploring Earned Wage Access as a Liquidity Solution

Findings From a Study of Earned Wage Access Users

NOVEMBER 2023

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**Riya Patil**, *Associate, Workplace Solutions*

## Acknowledgements

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This report was developed with support from DailyPay. The insights and opinions expressed in this report are those of the Financial Health Network and do not necessarily represent the views or opinions of our partners, funders, and supporters.

**dailypay.**

## Contents

<b>Acknowledgements</b>	<b>2</b>
<b>Executive Summary</b>	<b>4</b>
<b>Introduction</b>	<b>6</b>
<b>Methodology</b>	<b>8</b>
<b>Key Findings</b>	<b>11</b>
1. Participants Use Earned Wage Access To Pay Bills on Time, Cover Unexpected Expenses	11
2. Participants Prefer Earned Wage Access to Available Alternatives	12
3. Participants Express Confusion When Asked for Tips	15
4. Participants Experience Few Issues and Plan To Continue Using Earned Wage Access	16
5. Earned Wage Access Helps With On-Time Payments, but Not Income Insufficiency	17
<b>Conclusion</b>	<b>21</b>

## Executive Summary

Earned wage access (EWA) – also known as on-demand pay – is a solution designed to address short-term liquidity needs. With EWA, users can withdraw some or all of their wages as they earn them, ahead of their next scheduled payday. **Employer-integrated** EWA platforms partner with an employer payroll system to access data and provide workers with access to wages before payday, while **direct-to-consumer** platforms use data from a customer's bank account to provide access to liquidity based on observed deposits and withdrawals. As a relatively new product, EWA is receiving attention from providers, potential users, and policymakers all seeking to better understand its effect on users.

This study builds on the Financial Health Network's previous research on the topic, which used administrative data from two direct-to-consumer and two employer-integrated EWA providers to understand frequency of use and average costs for users. The Financial Health Network conducted the current study to better understand not only *how*, but *why*, people are using EWA; how it has complemented or changed their financial behavior; and how using EWA is impacting their financial health.

To gather these insights, we collected qualitative data through a three-day online discussion board of 21 users of EWA. Based on users' responses to a series of prompts, the findings and quotes from participants included in this report are not intended to be representative of all EWA users. Rather, we conducted this study to explore and identify themes from the users' experiences, how they utilize the service, and their perceptions of its impact on their financial health.

## Key Findings

### 1. Participants Use Earned Wage Access To Pay Bills on Time, Cover Unexpected Expenses

Many participants noted that they used EWA to pay bills that were due ahead of their paycheck or cover some other shortfall in paying for daily expenses. When asked about the first time they used EWA, participants described emergency situations or unexpected expenses as reasons for using the product. These situations included unexpected car and home repairs, as well as medical expenses.

### 2. Participants Prefer Earned Wage Access to Available Alternatives

Participants spoke of the benefits that EWA provided – particularly relative to other options that they would use to pay their bills and cover emergency situations while facing liquidity challenges. Consumers in our study generally viewed EWA as better than alternative

short-term credit options available, including payday loans, intentionally incurring late fees or overdraft, or borrowing from friends and family. Some users also felt these alternatives carried a social stigma, while EWA did not. Using EWA allowed users to access the liquidity they needed while still preserving their sense of dignity. Further, nearly all participants in our study did not view EWA as the same or akin to loans, instead asserting that EWA provided wages they had already earned, which was fundamentally different from borrowing against future earnings.

### **3. Participants Express Confusion When Asked for Tips**

While most EWA users in our study spoke highly of the benefits of EWA in supporting their immediate financial needs, they also expressed some confusion with tip-based models. This was especially true when compared with other models with clearer costs, like subscription and fee-based models. Specifically, participants expressed confusion about where voluntary tips went and the amount to leave for a tip.

### **4. Participants Experience Few Issues and Plan To Continue Using Earned Wage Access**

Most participants in this study highlighted positive experiences with EWA, and the majority did not report any issues with their accounts. The minority of users who shared problems or challenges using EWA reported issues related to accuracy of the EWA account, the ability for the EWA app to integrate with their bank account, and the speed at which they received funds. Nearly all study participants reported that they plan to continue using EWA.

### **5. Earned Wage Access Helps With On-Time Payments, but Not Income Insufficiency**

EWA provided participants with more breathing room in their day-to-day spending and during emergencies, yet it was not able to solve the underlying reasons that users faced liquidity challenges – namely, that their income was insufficient to cover their daily expenses and unexpected financial shocks. Further, we see that cyclical use of EWA (taking an advance at least once, and often multiple times, per pay period) is common. It is not clear whether this is driven by ongoing short-term liquidity needs; the downstream financial impact of EWA, like smaller paychecks due to previous cash advances; or both. The majority of participants agreed that the service did improve their well-being, yet they were clear that it did little to address the underlying reasons behind their financial precarity.

There is still much more that providers, policymakers, employers, and consumers must understand about EWA. Through our research, we uncover new lines of inquiry that could increase the positive impact of EWA on users. However, it is equally important that we work toward addressing the underlying financial health challenges that cause users to turn to solutions like EWA in the first place.

## Introduction

Earned wage access (EWA), or on-demand pay, is a growing product category that allows users to access some or all of the wages from their next paycheck before their next scheduled payday. These mobile and web-based platforms aim to address the liquidity challenges that many households across the country face. Recent research from the Financial Health Network found that in 2023, 22% of households were spending more than their income, 29% reported not being able to pay their bills on time, and 43% had insufficient savings to cover at least three months of living expenses.<sup>1</sup> Taken together, these findings show that many households struggle to find the money to pay for day-to-day expenses.

There are a number of products and services that have sought to solve the short-term liquidity challenges that households face. These solutions range from credit cards to short-term loans like payday, pawn shop, auto title, and tax refund loans. Other consumers use overdraft as a form of credit or incur late fees on bills when faced with liquidity challenges. When possible, consumers may turn to friends and family to help.<sup>2</sup>

The underlying issues driving these short-term liquidity challenges are well documented. Many households face a timing mismatch between when they must pay expenses and when they receive income. This is particularly acute for people whose regular expenses exceed their regular income or for people who have limited ways to pay for a financial shock. Research shows that people are willing to pay for quicker, more frequent access to income to meet their immediate liquidity needs. For example, one analysis of account holders' tradeoffs between check depositing and check cashing, which is faster and more expensive, found a significant preference for faster access to funds and a willingness to pay \$11.17 per day for that access.<sup>3</sup> Another analysis of simulated payday loans finds that increasing frequency of payment – even through the use of payday loans – can improve workers' well-being.<sup>4</sup> Other studies show that being paid more frequently and having less income volatility both contribute to improved well-being and financial security.<sup>5,6</sup>

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<sup>1</sup> Kennan Cepa et al., "[Financial Health Pulse® 2023 U.S. Trends Report: Rising Financial Vulnerability in America](#)," Financial Health Network, September 2023.

<sup>2</sup> Research shows that access to friends and family with financial resources to help individuals in times of need is neither equal nor equitable. Further, research shows that the reliance on kin networks for financial support disproportionately impacts Black households and contributes to the Black-White racial wealth gap. See Jermaine Toney & Darrick Hamilton, "[Economic Insecurity in the Family Tree and the Racial Wealth Gap](#)," Review of Evolutionary Political Economy, June 2022.

<sup>3</sup> Ryan C. McDevitt & Aaron Sojourner, "[The Need for Speed: Demand, Regulation, and Welfare on the Margin of Alternative Financial Services](#)," The Review of Economics and Statistics, January 2023.

<sup>4</sup> Christopher A. Parsons & Edward D. Van Wesep, "[The timing of pay](#)," Journal of Financial Economics, August 2013.

<sup>5</sup> Wendy De La Rosa & Stephanie Tully, "[The Impact of Payment Frequency on Subjective Wealth Perceptions and Discretionary Spending](#)," June 2020.

<sup>6</sup> "[How Income Volatility Interacts With American Families' Financial Security](#)," The Pew Charitable Trusts, March 2017.

Increasingly, people have turned to EWA – either provided through employers as a benefit to workers or offered directly to users – to help ease these liquidity constraints. EWA is growing as both a strategy and product segment: One industry analysis noted that between 2018 and 2020, the size of the earned wage access market had tripled to \$9.5 billion, serving over 55 million consumers.<sup>7</sup> Additionally, the Financial Health Network’s FinHealth Spend survey reveals that the EWA market is growing: In January 2023, 7.5% of workers reported that their employer offered EWA, up from 6.1% in November 2021.<sup>8</sup>

### Understanding the 2 Distinct EWA Models

There are two distinct delivery models of EWA, one that is **employer-integrated** and another that provides funds directly, without an employer intermediary (referred to as **direct-to-consumer** (D2C) advance products). Employer-integrated platforms partner with an employer or payroll system, tapping into data about the hours worked and wages earned and providing workers with access to those wages ahead of payday. In contrast, D2C platforms have no direct insight into earnings and instead leverage data from a customer's bank account, providing access to liquidity based on observed account deposits and withdrawals.

While there are well-founded debates about whether employer-integrated EWA and D2C platforms should be treated as the same or distinct products, this study combines users of both for a few reasons. The user experience is similar with both models: People can access a defined amount of their earnings ahead of payday. When recruiting for our study, we also found that several users reported using more than one EWA product.

Yet EWA is still a relatively new product, and state and federal policymakers are actively engaged in conversations about whether and how to regulate it.<sup>9</sup> As policymakers consider regulations and EWA providers evolve their product offerings, we believe it is critical to better understand how consumers are using EWA and its impact on their financial health.

<sup>7</sup> “Employer-Based Loans and Early Pay: Disruption Reaching Scale,” Aite-Novarica Group, April 2019.

<sup>8</sup> Analysis of the Financial Health Network’s FinHealth Spend survey, a nationally representative survey to understand household usage of a variety of financial products. Difference between 2021 and 2023 reported access to EWA is statistically significant at  $p < 0.05$ . For more details on the survey and methodology, see Meghan Greene, Wanjira Chege, MK Falgout, & Necati Celik, “[FinHealth Spend Report 2023: U.S. Household Spending on Financial Services Amid Historic Inflation and an Uncertain Economy](#),” Financial Health Network, June 2023.

<sup>9</sup> As an example, Nevada was the first state to pass comprehensive legislation to govern EWA, requiring providers be licensed by the state and be subject to specific disclosure requirements to users. It also stipulates how providers can and cannot recoup funds provided to a user that are not repaid by the user, and states that EWA is not considered a loan or money transmission and is not regulated as such. See “[SB 290](#),” Nevada State Legislature.

Previous Financial Health Network research based on administrative data from four EWA providers, two employer-integrated and two D2C platforms, found that EWA users relied on the product with some consistency. According to that data, users took an average advance of \$120 and tended to take more than one advance across semi-monthly periods for an average time period of two months.<sup>10</sup> A study from the California Department of Financial Protection, which relied on California-based administrative data from seven EWA providers (including employer-integrated and direct-to-consumer models), found that the majority of EWA advances were between \$80 and \$100, with the average consumer taking out nine advances per quarter, equivalent to 1.1 advances per semi-monthly pay period.<sup>11</sup> This was similar to the within-pay period frequency seen in the Financial Health Network report, but was consistent over a longer period of time.

The research on EWA is still nascent in understanding how consumers perceive the product and what motivates them to – or dissuades them from – using EWA. Better understanding how consumers are leveraging this product is imperative for providers and policymakers alike. For this study, we investigated two primary research questions:

- What is the experience of EWA consumers, in using both direct-to-consumer and employer integrated solutions? How and why do they start using EWA? If they continue to use EWA, why?
- What is the relationship between EWA use and financial health?

This brief explores consumers' use of EWA services, including when and why they chose to take advances. We look at how users evaluate EWA relative to other options to meet their liquidity needs, how they navigate challenges while using the services, and whether and how they plan to continue using the product. Finally, we examine how EWA users describe the service's impact on their financial health.

## Methodology

The findings from this report are based on qualitative data collection from a three-day online discussion board of EWA users held from June 27 through June 29, 2023. Recruitment of participants was conducted through an online panel (panelists and intercepts) that identified 200 users of EWA products. A subset of users were then invited to participate in a three-day online discussion board. This report includes findings and analyses based on the responses of 21 participants.

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<sup>10</sup> Devina Khanna & Arjun Kaushal, "[Earned Wage Access and Direct-to-Consumer Advance Usage Trends](#)," Financial Health Network, April 2021.

<sup>11</sup> "[2021 Earned Wage Access Data Findings](#)," California Department of Financial Protection and Innovation, 2023.

Participants were asked to respond to a series of online exercises and questions at their convenience over the course of the three days. Responses to some sensitive questions were kept private to moderators and researchers, while other questions and responses were shared with all participants so participants could react to and converse with fellow panelists. Together, this yielded rich insights about the commonalities and differences in users' experiences. Moderators facilitated and probed for elaboration on certain responses and topics as needed. Participants received a \$150 gift card for their participation.

The sample of participants included slightly more users who identified as female than male. Participants also ranged in ages, with more younger users (aged 18-49) of EWA included. Geographically, participants were from all over the U.S., with more from the South and Western U.S. Participants also came from a wide range of races and ethnicities, and they were evenly split between respondents who identified as White and those who identified as people of color. Household income of participants also varied, with about half living in households with less than the U.S. median income and half with income above the median.<sup>12</sup>

**Table 1. Discussion board participant demographics.**

Characteristic	Number of participants
<b>Gender</b>	
Male	9
Female	12
<b>Age</b>	
18-29	6
30-49	10
50 or older	5
<b>Race/ethnicity</b>	
American Indian or Alaskan Native	2
Asian or Asian American	1
Black or African American	3
Hispanic or Latino/a/x	2
Multiracial	3
White	10
<b>Household income</b>	
Less than \$40,000	5
\$40,000-\$74,999	7

<sup>12</sup> Median household income in 2022 was just under \$75,000. See Gloria Guzman & Melissa Kollar, "[Income in the United States: 2022](#)," U.S. Census Bureau.

\$75,000-\$99,999	4
\$100,000 or more	5
<b>Employment arrangements</b>	
Works 1 job	16
Works 2 jobs	5
Works full time for someone else	18
Work part time for someone else	3
Main job is salaried	8
Main job is paid by the hour	13

Participants ranged in their financial health as well. The majority faced liquidity constraints, with few reporting spending less than their income, and half reporting they had savings that would cover less than one month of expenses at their current level of spending. Fewer than half of users in our study reported paying all their bills on time.

**Table 2. Discussion board participant financial health.**

Financial health	Number of participants
<b>Spending habits</b>	
Spending was much less than income	0
Spending was a little less than income	3
Spending was about equal to income	9
Spending was a little more than income	6
Spending was much more than income	3
<b>Savings (excluding retirement accounts) on hand could cover expenses for the following time period</b>	
6 months or more	3
3-5 months	5
1-2 months	2
1-3 weeks	9
Less than 1 week	2
<b>Paying bills over the past 12 months</b>	
Pay all of our bills on time	8
Pay nearly all of our bills on time	6
Pay most of our bills on time	4
Pay some of our bills on time	3
Pay very few of our bills on time	0

We sought to use qualitative data collection methods in order to hear from EWA users about the user journey, how they evaluate the products, what they liked about the EWA service, and what could be better.

## Key Findings

### 1. Participants Use Earned Wage Access To Pay Bills on Time, Cover Unexpected Expenses

Despite its growing use, EWA is still a relatively new product. Given its novelty, it is important to understand how users are learning about the platform and why they decide to use the service. In this study, we were interested in learning both what led participants to begin using EWA, as well as the reasons they continued using the service. These experiences lend insight into the underlying financial circumstances that drive interest in and need for EWA.

#### Connecting to EWA Products and Services

We found that users learned about EWA platforms through advertisements, professional networks, and their employers. In particular, respondents who were using direct-to-consumer EWA platforms reported that they primarily discovered EWA through online ads and targeted marketing, as well as word of mouth. For users who connected to EWA platforms through their employers, most had originally found out about the benefit from their employer and from fellow employees. One user even mentioned seeking out employment after finding out that the employer offered the benefit.

*"I first learned about on-demand pay when I saw a poster at the local McDonald's that they were hiring and offered flex pay as an option... I actually work part time now for them as an extra income just for that reason."*

#### Impetus for First Use: Bills and Emergency Expenses

Two key experiences drove use of EWA products, both initially and over time. First, many participants used EWA to pay bills that were due ahead of receiving their paycheck or cover a shortfall in paying for daily expenses. One participant explained, "I was having difficulty paying my bills. I had credit card bills, rent, food, and general supplies." Another participant used EWA for the first time when her child's daycare ran out of diapers and she needed to provide them before she got paid a few days later. Most often, people mentioned rent, food, credit card payments, car payments, and gas as the daily expenses they used EWA to cover.

In many cases, participants used EWA for the first time because these daily expenses were compounded by emergency situations or unexpected financial shocks. People mentioned that

unexpected car and home repairs and medical expenses led to situations where they couldn't cover their immediate expenses. For example, one participant noted that she turned to EWA after her husband's loss of income stemming from his inability to work following surgery caused them to need funds more readily than previously. Another participant said he had several bills due at once – the mortgage and credit card – and the financial impact was exacerbated by an unexpected home expense, leading him to note that “we needed the income early.”

### **Similar Factors Drive Ongoing Use**

The reasons for first-time and ongoing use of EWA services are similar. Participants discussed either being short on money to cover bills and daily expenses or experiencing emergencies where they needed cash immediately to cover unexpected expenses. Some participants reported using EWA regularly to make ends meet. Talking about the most recent time she used EWA, one participant said, “It was no different than any other time I would use [EWA]. I needed cash right away for food and gas to get to work the next day.” Other participants discussed turning to EWA in more emergent situations, like when they had to purchase an EpiPen for \$300 that their insurance did not cover. Occasionally, users reported using EWA to cover entertainment expenses, like going out to a special dinner for an anniversary or purchasing a new video game.

How frequently participants turned to EWA seemed to depend on whether they used EWA to pay for more regular expenses or for emergency expenses. Users that needed more immediate access to cash to cover daily expenses reported using EWA frequently: often weekly and, for some users, up to every day that they work. In contrast, users who relied on the service solely for large, unexpected expenses used EWA once every few months as needed. Most participants reported a mix of these approaches – using it primarily to cover unexpected expenses, but also turning to it sometimes when bills are due.

## **2. Participants Prefer Earned Wage Access to Available Alternatives**

Participants in our study emphasized that EWA helped them make ends meet. At times, the service helped users address a timing mismatch between when bills were due and when they were paid or make up for an income shortfall. In other cases, it helped users pay for unexpected costs. In particular, participants spoke of the benefits of EWA relative to other solutions that they would use to pay their bills and emergency expenses.

### Providing Options for Accessing Pay

Previous research has shown that more frequent access to income, for the same or lesser amount than less frequent payments, improves subjective well-being.<sup>13</sup> Indeed, income scarcity is associated with higher cognitive loads and stress.<sup>14</sup> This has a real impact on financial health, as more income volatility is associated with lower financial well-being.<sup>15</sup> It is unsurprising, then, that participants in our study, who often expressed the stress of paying bills and unexpected expenses when bank account balances were low, particularly appreciated the ease and speed of EWA.

Though the speed of access to funds was a preferred feature, there were differences in how much users valued this aspect, especially when facing fees for immediate or near-immediate access to funds. While some study participants were willing to pay a fee for immediate access to funds, several participants noted that they would rather wait for funds than pay a fee:

*"The higher the request, the higher the fee... But I never pay it to be deposited immediately. I always do the 24 to 48-hour deposit for free with an optional tip."*

Other users noted that their willingness to pay for immediate access to funds through EWA depended on their financial situation. One user explained that she tries to wait to receive funds so that she doesn't have to pay a fee, but ultimately it depends "on how quickly I need it. Maybe half the time I will wait for the day, and the other half I need it immediately, so I will pay the fee." Ultimately, users reported that EWA helped them meet their short-term liquidity needs, and the flexibility on payment timing meant that they could align the service to their financial needs.

### A Better Alternative to Other Liquidity Sources

Study participants generally viewed EWA as better than alternative short-term liquidity options. Researchers are split on whether EWA is in fact a cheaper alternative to other short-term credit sources, depending on which measures are analyzed. Some research emphasizes that the absolute cost in dollars is substantially less than the amount for payday loans or overdraft fees.<sup>16</sup> Other research looks at annualized percentage rates, finding that the effective APR on many EWA advances look similar to rates charged on payday loans.<sup>17</sup>

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<sup>13</sup> Wendy De La Rosa & Stephanie Tully, "[The Impact of Payment Frequency on Subjective Wealth Perceptions and Discretionary Spending](#)," June 2020.

<sup>14</sup> Anandi Mani, Sendhil Mullainathan, Eldar Shafir, & Jiaying Zhao, "[Scarcity and Cognitive Function around Payday: A Conceptual and Empirical Analysis](#)," Journal of the Association for Consumer Research, September 2020.

<sup>15</sup> "[How Income Volatility Interacts with American Families' Financial Security](#)," The Pew Charitable Trusts, March 2017.

<sup>16</sup> Todd Baker & Snigdha Kumar, "[The Power of the Salary Link: Assessing the Benefits of Employer-Sponsored FinTech Liquidity and Credit Solutions for Low-Wage Working Americans and their Employers](#)," Harvard Kennedy School, Mossavar-Rahmani Center for Business & Government, M-RCBG Associate Working Paper Series, May 2018.

<sup>17</sup> "[2021 Earned Wage Access Data Findings](#)," California Department of Financial Protection and Innovation, 2023.

Regardless of whether EWA is in fact comparable to or less expensive than alternatives, study participants perceived it to be a more reasonable – and less expensive – alternative. One participant said:

*"I have tried payday loans, having a credit card, car title loans, gotten loans on my jewelry at a pawn shop. All of these charge fees at an insane interest rate and the fees are almost as much as the money borrowed if you have to pay over time. And it's a temporary fix. Getting advanced wages I have earned through my employer is actually the safer alternative."*

Users often methodically compared EWA to alternatives by comparing fees associated with using EWA to APRs on payday loans. One user noted, "I am unsure of the actual amount [I spent on the fees to use EWA], but they were less than the interest rates of payday loans."

In our study, we found the most common alternative to EWA was credit cards (when not maxed out). Moreover, while some participants also noted using multiple alternative channels to access funds when needed, they saw all alternatives as inferior to EWA. However, some users also noted that because they do not have access to traditional short-term liquidity solutions, they decided to use EWA out of necessity. Some participants also referenced not having the option to borrow from their family and friends who were not financially healthy, either.

*"I don't have many alternatives. Friends and family are struggling just as I am and can't afford to help out. My credit sucks so I can't just apply for new credit cards; the two credit cards I do have are maxed out and waiting to be paid off. I tend to rely on the early payment apps."*

### **A More Dignified – and Fundamentally Different – Option**

Equally as interesting is how users consider EWA to be a more socially acceptable credit alternative. A few participants noted that they experienced a stigma around other options, including payday loans or asking family and friends for funds. Using EWA allowed participants to access the short-term liquidity they needed while still preserving their sense of dignity.

Further, nearly all participants in our study did not view EWA as the same, akin to, or similar to loans. Instead, they viewed EWS as fundamentally different from a loan. In the words of one participant, "I believe [EWA] is different from a loan. A loan gives me access to something I need to earn in the future. EWA gives me access to something I've already earned." This was echoed by other participants who agreed EWA was "payment for work already performed" and "money already earned."

### 3. Participants Express Confusion When Asked for Tips

Although most study participants spoke highly of the benefits of EWA in supporting their immediate financial needs, they also experienced confusion and challenges when they were asked for tips in the platform.

#### A Variable Landscape of Fees and Tips

Both employer-integrated and D2C EWA models can vary in their fee or revenue structures. Transaction-based revenue structures charge fees per use, collect fees for more rapid access to funds, or request voluntary fees (called tips) per transaction. Subscription-based revenue structures charge a fixed monthly fee and may also collect fees for more rapid access to funds.<sup>18</sup> In the case of employer-integrated platforms, these costs can be incurred by the employee, employer, or a mix of the two.<sup>19</sup>

When asked about the fees they pay for EWA, a majority of participants in our study reported they paid between \$1 and \$5 per transaction. A few participants said they paid no fees, either because they always waited to have the funds accessible or because they were not responsible for any fees under their employer's benefit. A few participants reported paying higher fees; the largest fees reported were \$10 per transaction, 12% per transaction total, and \$20 per month for ongoing access.

Participants expressed more confusion regarding tips. A few users reported that the default settings were for high tip amounts, and one participant reported a setting where she accidentally tipped \$40 for a single transaction. There was also confusion about where the tips go once collected.

*"I just assumed that [the tip I leave] either goes into a pot of some sort that is used to advance money to other users or is used to help cover the costs of the service. However, now that you have asked the question, I really don't know for sure where it goes. I don't feel like I was ever given much info about it, or if I was, I didn't take notice."*

While discussion board participants reported much less clarity and the potential to make mistakes under tip-based models, administrative data show that these tip-based businesses may not be collecting more per transaction than non-tip based models. In an analysis of transaction data from three tip-based companies, the California Department of Financial Protection and Innovation found

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<sup>18</sup> "2021 Earned Wage Access Data Findings," California Department of Financial Protection and Innovation, 2023.

<sup>19</sup> Devina Khanna & Arjun Kaushal, "Earned Wage Access and Direct-to-Consumer Advance Usage Trends," Financial Health Network, April 2021.

that users left tips on 73% of all transactions, at an average amount of \$4.09.<sup>20</sup> This data echoes the Financial Health Network's analysis of administrative data from four companies with varying revenue models (subscription, transaction-based, employer-integrated, and direct-to-consumer), which found that the mean cost per advance was \$4.07.<sup>21</sup>

#### **4. Participants Experience Few Issues and Plan To Continue Using Earned Wage Access**

In this study, we explored whether users experienced challenges while using EWA, either while signing up, accessing their accounts, or receiving funds. To the extent users experience such challenges, understanding them can lend insight into needs for product improvements, as well as potential areas for regulation or oversight. Further, it is vital to know whether consumers are satisfied with the product and whether – or how – they plan to continue using EWA.

##### **Few Report Challenges With EWA Platforms**

The vast majority of participants in this study highlighted positive experiences with EWA, and the majority did not report any issues with their accounts. Among users who reported challenges, EWA account accuracy, the ability to integrate the EWA app with their bank account, and the speed at which they received funds were the primary issues cited. For example, some users reported a lag or inaccuracy between the hours they worked, wages earned, and available funds through the EWA app, which meant they were unable to access their wages when they were earned.

Other users also reported running into technical difficulties, with delays in getting the app to load and in processing disbursements in the time frame promised. This meant that users did not have access to the funds that they expected at that time, creating frustration when they planned to use those funds for a specific expense. One user said they nearly missed a bill due date because of this problem. Even for users who reported these issues, they did not indicate that these experiences led them to stop using the service. Rather, they were technical challenges and headaches, but once resolved, these participants said they continued to use the platform.

##### **Participants Plan To Continue Using EWA**

Nearly all study participants reported that they plan to continue using EWA. Participants explained that there were a few circumstances where they would stop or curtail their use of the service. First, users would stop using EWA if fees became unreasonable. As previously discussed, participants perceived the cost of the service as reasonable and lower than alternatives. While there was no

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<sup>20</sup> “[2021 Earned Wage Access Data Findings](#),” California Department of Financial Protection and Innovation, 2023.

<sup>21</sup> Devina Khanna & Arjun Kaushal, “[Earned Wage Access and Direct-to-Consumer Advance Usage Trends](#),” Financial Health Network, April 2021.

agreement on what a threshold of acceptable fees would be for the service, participants were clear that they would stop using the service if costs accelerated.

*"I would consider stopping use if fees/tips/membership got to be outrageous. For instance, if the cost were more than what I received from my pay."*

Users also noted that they would stop using EWA if accessing the funds would put them underwater when payday arrived. One participant noted that when using EWA, "I have to be cautious not to overspend, since my paycheck at the end of the month will be less since I had access to so much of it prior."

Finally, participants hoped they would no longer need to use EWA in the future. Participants wanted to be more financially stable – specifically, to have higher incomes – which would negate their need to rely on EWA to either meet bill due dates or cover unexpected expenses. Users prefer EWA to alternatives to meet their short-term liquidity needs, but they clearly understand this is a tool to make ends meet or cover expenses they would otherwise be unable to pay, rather than supporting their long-term financial health needs.

While few reported issues with EWA and the vast majority plan to continue using the service, participants did offer ideas and suggestions about how to improve the service. These recommendations included reducing fees and tips, providing faster access to funds, integrating with more banks, and improving customer service.

## **5. Earned Wage Access Helps With On-Time Payments, but Not Income Insufficiency**

It is critical to understand whether and how EWA may be impacting users' financial health. There are several aspects to financial health, including whether people are spending, saving, borrowing, and planning in ways that enable them to be financially resilient and pursue opportunities. This study sought discussion board participants' perspectives on how EWA impacted their financial behaviors, habits, and subjective well-being.

### **Making Spending Easier**

Our study found that access to EWA provided users with more breathing room in their day-to-day spending and during emergencies, serving as an adequate tool to address the short-term liquidity needs of users. Participants often discussed that they used EWA specifically to pay bills that were due. Thus, EWA improved users' ability to pay their bills on time, and reduced late fees incurred on those bills.

*"EWA has, on numerous occasions, helped me pay a bill on time by giving me access to enough money in time to pay the bill when I otherwise wouldn't have been able to."*

There were also times when participants used other sources to pay for unexpected expenses, but EWA then ensured that they could cover day-to-day expenses. One participant explained that because they used EWA, "I was able to keep my utilities on after a huge expense that was totally unexpected."

When it came to covering emergency expenses, participants reported that knowing they could use EWA lowered their stress and overwhelm. One participant said that EWA felt like a "safety net," another said knowing they can access their money to pay for unexpected things "eases my mind," and others talked about feeling "relieved."

### **Unable To Address Bigger Economic Challenges**

Despite these benefits, EWA was not able to solve the underlying factors that caused users to have short-term liquidity challenges. For many participants, income was simply insufficient to cover their bills and any large emergency expenses that came up. Indeed, there are still emergency expenses that are too significant for EWA to make a difference. One participant explained, "Having access to on-demand pay doesn't change what I think about having to cover an unexpected \$500 expense. To me, that is an impossible amount for me to have to cover no matter what I do. I would still panic and it's a huge source of anxiety to live from paycheck to paycheck."

Participants reported that these unexpected expenses were still incredibly challenging to manage, particularly in light of their cost of living. Participants wished they had more cushion in their budgets, and others wished they didn't have to draw down from their future paycheck to cover it.

*"Even with access to these services, I would not be able to cover an unexpected \$500 expense. My rent has literally doubled in the past two years while my job only gave me a \$1 raise. We have no savings."*

Because the majority of participants were living paycheck to paycheck, most were not focused on long-term savings. Some participants reported that they would use EWA rather than dipping into any savings to cover expenses, but largely felt there was limited impact on their long-term savings outside of avoiding late fees.

### **Shifting Spending and Borrowing Behavior**

In this study, we were interested in learning how the shift in cash flow enabled by EWA impacted users' financial behavior, particularly their spending and borrowing habits.

With regard to spending, there were two distinct effects of having more immediate access to cash

that participants reported. For some, the ability to receive income more frequently meant that they felt they did not have to monitor their spending as closely as they would if they had less frequent paydays. Conversely, others noted that they planned and budgeted more meticulously, anticipating a smaller paycheck come payday because they took out money ahead of time.

The relationship between EWA access and borrowing behavior is similarly complex. Other research shows that being paid more frequently can improve subjective financial well-being and perceptions of wealth; in response, people may spend more and save less.<sup>22</sup> They may in turn also borrow more. Yet participants describe a real and pressing need for access to cash, and many turn to EWA in lieu of alternatives that, in their minds, are less desirable. Study participants report relying less on those alternatives and more on EWA to meet their borrowing needs.

A concern about EWA is that it may lead to habitual use that consumers cannot escape: as they use EWA and access wages ahead of payday, they face smaller paychecks on payday. If not planned for, these smaller paychecks could have implications for EWA users' ability to cover their expenses in the next pay period if they are not able to reduce expenses in that time. It could encourage ongoing, frequent use of EWA that does not enable users to catch up, get ahead of their spending, or build savings.

For a few participants in our study, we see this concern borne out. Many participants report using EWA frequently – at least once, but often multiple times, per pay period. In some instances, participants shared that because they received smaller paychecks on payday after using EWA, they got behind on bills and ended up needing to use EWA again. Some participants, when they found themselves with smaller than anticipated paychecks, shouldered the blame for not having planned or budgeted effectively. One participant said, “There have been times where I have not prepared well enough for the amount my check would be. That's my own fault for not tracking how much I had actually taken out for on-demand pay before my check.” Another participant felt she was using EWA too much because she ended up with a paycheck for less than \$100 come payday. “At times I am glad it's there, and at times I feel it's a curse,” she said, illustrating the tension that some users face between accessing cash now and waiting to receive a larger lump sum come payday.

### **Perceptions of Financial Health Impact**

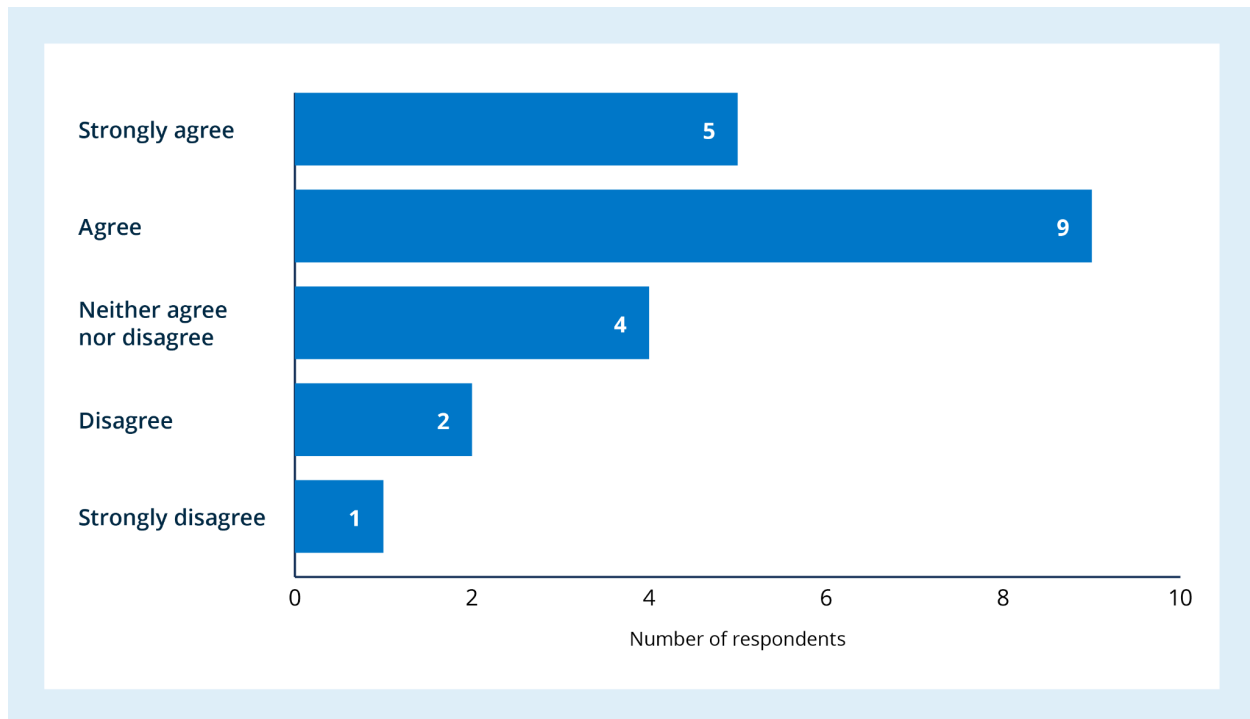
Most of the discussion board participants expressed that they faced hardships, stress, and challenges in managing their financial lives. This study explored participants' understanding of the relationship between EWA use and financial health. When responding to a poll question about whether EWA improved their financial health, roughly two-thirds of study participants felt EWA benefitted their financial health, and only three felt it detracted from their financial health (Figure 1).

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<sup>22</sup> Wendy De La Rosa & Stephanie Tully, “[The Impact of Payment Frequency on Subjective Wealth Perceptions and Discretionary Spending](#),” June 2020.

**Figure 1. Most participants felt that using EWA has improved their financial health.**

Responses to the poll, “How much do you agree or disagree with the following statement: Using earned wage access/on-demand pay has improved my overall financial health or financial well-being.”<sup>23</sup>



Participants who disagreed that EWA improved their financial health indicated that access to EWA did not address their fundamental challenge: They simply were not earning sufficient income, and EWA did not impact the amount they earned. This was underscored by further discussion about the mechanisms through which EWA impacted participants’ financial health. About half of participants reported that because EWA did not address the underlying problems that caused their liquidity challenges – like having insufficient income and limited savings – the service did little to impact their financial health. The other half felt that because they were better able to cover daily or unexpected expenses, access to EWA had in fact positively impacted their financial health. These participants also mentioned that EWA helped to prevent them from incurring late fees or overdraft fees. Ultimately, we find that users are leveraging EWA as a strategy to cope with financial precarity.

<sup>23</sup> We did not define the term “financial health” for participants. Participants may have interpreted the concept differently than how the Financial Health Network measures it.

## Conclusion

Our study shows that, according to users of the service, EWA is an important and favorable option for addressing liquidity needs. Our study participants are using EWA to meet regular and unexpected expenses and feel that the service is reasonably priced, especially compared to alternatives. For that and other reasons, they reported preferring EWA to alternatives like maxing out credit cards, incurring late fees, and borrowing from friends and families.

However, EWA was not able to solve the underlying financial health challenges that cause these liquidity needs in the first place. Many study participants reported living paycheck to paycheck and that their income simply did not cover their expenses. EWA is a tool to help align income and expenses, but users still grapple with underlying financial precarity.

Thus, as providers evolve their product offerings, policymakers consider regulations to protect users, employers evaluate integrated EWA as a benefit, and people weigh whether to use the service, this study suggests the following new lines of inquiry:

- **Which worker or customer segments could benefit most from faster access to income via EWA?** Misaligned timing between income and expenses was common among our study participants across income levels and demographics. Most participants found that EWA – and the faster access to wages that it provided – was helpful in covering both regular and unexpected expenses. Additional research could investigate when the misalignment between income and expenses is most acute and deepen our understanding of how more immediate access to income can impact financial stressors.
- **How can we increase transparency around EWA product cost, especially tips?** Our study finds some confusion about the fee structure of the service, primarily in terms of voluntary fees (tips), echoing studies with similar findings.<sup>24</sup> Additional research could investigate best practices for fee disclosures and the fairest revenue models that protect consumers.
- **How does EWA compare with other alternatives for short-term liquidity, and when would current non-users choose to use EWA?** Our study participants – all current or recent users of EWA – emphasized that they preferred it to alternatives like taking out payday loans, incurring overdraft fees, and borrowing from friends and family. Additional research could investigate how people who find themselves in similar positions who *haven't*

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<sup>24</sup> See for example, [“Financial Technology: Products Have Benefits and Risks to Underserved Consumers, and Regulatory Clarity Is Needed,”](#) United States Government Accountability Office, March 2023.

used EWA might evaluate the solution relative to alternatives. This could lend additional insight into how EWA fits into the broader market of liquidity solutions.

- **Which other strategies could address underlying liquidity constraints?** Study participants reported being unable to make ends meet because their income is too low to cover their expenses. While EWA can marginally decrease the types of costs incurred by helping study participants avoid late and overdraft fees or higher-cost financing alternatives, it cannot increase the income of users. What other innovations and strategies might boost incomes or alleviate expenses and better support households with liquidity challenges?

Participants in our study said they found EWA to be a helpful and preferred option to address their liquidity needs. As consumers, providers and employers, and policymakers continue to invest in EWA as a solution, it is critical that we continue to further investigate and understand the evolution of EWA and its impact on users' financial health.

Testimony on HB 1393  
Bill Kalanek  
House Industry Business & Labor Committee

Good morning Chairman Warrey and members of the House Industry, Business & Labor Committee. I'm here today on behalf of the ND Pawnbrokers Association and Catalis LLC to support HB 1393 which establishes a regulatory framework for what has become known as Earned Wage Access. Earned Wage Access is an online financial tool that allows individuals to access their earned but unpaid wages prior to their regular payday. You may view it similarly to a payday loan. The services offer financial flexibility for many workers but the lack of clear regulation has created inconsistencies in operational transparency and a lack of proper consumer protections.

A study from the California, the Department of Financial Protection and Innovation (DFPI) found that borrowers using EWA services took out an average of nine advances per quarter, totaling 36 advances per year. In some cases, borrowers took as many as 25 advances per quarter, illustrating heavy reliance on these products. Furthermore, 29% of borrowers admitted to taking out multiple advances from different providers simultaneously. With no coordination across platforms, this unregulated behavior increases the risk of financial overextension.

HB 1393 will:

- Prevent consumers from becoming overextended on Earned Wage Access advances.
- Require Earned Wage Access providers to submit information on every transaction to a statewide database, similar to the database that has been in North Dakota for payday loans for over 15 years.
- Require business entities offering the Earned Wage Access product to submit information on each transaction as required by state law.
- Create a database that uses transaction information to ensure compliance with state law. To meet legal requirements, the database must track a borrower's status at a specific point in time, allowing providers to determine whether they are eligible to offer another Earned Wage Access advance.
- Establish licensed providers who have access to the database making unlicensed activity easier to identify and enforce
- NOT create reporting of information about a consumer's payment history or transaction history to credit or collections agencies.
- NOT provide a credit score or any indication of borrower creditworthiness.
- Empower regulators to protect consumers from overextending themselves.

- Be a Self-funding program. Provides for the use of fees, on each database transaction, to pay for the database system.

This legislation will track all EWA transactions in real time, preventing borrowers from taking out more than the allowed number of advances, even if they use multiple platforms. Additionally, it would allow regulators to monitor consumer protection and promote a safe and healthy marketplace.

Additionally, this legislation will also provide this legislative body, as well as the Department of Financial Institutions with valuable data on borrower behavior and industry practices, enabling them to make more informed decisions around consumer protections. By addressing the issue of overextension and reducing the need for frequent borrowing, states can help ensure that EWA remains a tool for financial relief, not a source of ongoing debt.

I urge the committee to support HB 1393 to protect workers, foster innovation, and promote accountability in the Earned Wage Access industry.



**HB 1393**  
**January 20, 2025**  
**Testimony of Kevin Lefton**  
**Global General Counsel - Wagestream, Inc.**

My name is Kevin Lefton, and I am the Global General Counsel for Wagestream. Wagestream is an employer-integrated Earned Wage Access provider similar to other providers speaking today. I would like to thank everyone here today for working on this important issue and allowing us to have an open dialogue about the benefits of Earned Wage Access, to both employees *and* employers.

Like many other providers in this space, we are supportive of regulations that help protect consumers, and like so many other Earned Wage Access providers, we oppose payday loans and other predatory financial products. However, it is critical to understand that ***Earned Wage Access services are: (1) not credit, (2) not a loan, and (3) not pay-day-loans, and therefore EWA should not be viewed or regulated as such.*** Employer-integrated Earned Wage Access services are critical to many users, many of whom are in the hospitality, healthcare, manufacturing, and education industries, as well as many other important industries that have hourly and frontline workers.

The benefits to users of employer-integrated Earned Wage Access services are that they are paid for wages they have already earned when *they* need it and have a low or ***no*** cost option that is an alternative to a high-cost payday loan or excessive overdraft charges that many consumers face if they don't have access to this service.

With employer-integrated Earned Wage Access services, the benefit to employers is that they have an easier time filling shifts when workers know they can be paid the same or next day. Further, studies have shown that it is easier to attract and retain new talent with Earned Wage Access as an employee benefit.

It is critical to understand how the employer-integrated earned wages access works:

1. First, the earned wage access provider (such as Wagestream) enters into a contract with the employer. This allows the Earned Wage Access provider to obtain accurate employee time and attendance data. ***We are not estimating earned wages - we see actual data.***
2. Second, unlike credit or loan products:
  - a. Earned Wage Access services are provided at either low or no cost to the user (low cost would typically be less than an ATM fee);
  - b. Providers do not charge interest;
  - c. Providers do not pull credit reports on the user;
  - d. The service is not based on creditworthiness;
  - e. The service is non-recourse to the user; and
  - f. There are no reports to collections or creditors at any time!

In summary, Earned Wage Access services are an excellent financial tool for employees, and a great benefit for employers to offer. This service should not be considered to be credit or a loan, because Earned Wage Access services are based on wages that have already been earned and do not share any of the same characteristics of a loan. I have attached to my testimony a document meant to assist you with understanding the “misinformation” that many organizations state about earned wage access. I would be happy to discuss this information in further detail at any time.

Earned Wage Access is a financial well-being tool that helps its users, many of whom are hourly and frontline workers. Using this tool will help them to better plan their finances and manage future expenses and emergencies.

Thank you all for your time on this important issue.

## **Earned Wage Access (EWA)**

### **Misinformation**

#### **Misinformation #1: “EWA is a loan.”**

1. EWA is absolutely NOT a loan. Almost every definition of a loan is similar in that a loan has two key components: 1) a debt is incurred and 2) there is interest or a finance charge. Neither of these two components are present with EWA:
  - a) First, no debt is incurred because this is a non-recourse product and there is no obligation to pay anything back; and
  - b) Second, EWA is either free or has a low flat fee and therefore does not have interest or a finance charge. The low flat fee is a service charge for same day service (similar to an ATM fee, which is not considered a finance charge or interest).

#### **Misinformation #2: “The nominal flat fee equates to a huge APR.”**

1. The low flat fee is a service fee, not an APR. Anyone can use the service for free by selecting "next day" or having the money put on a debit card. The flat fee is only applicable for "instant transfers" if you request the money the same day. This is no different than an ATM, PayPal, or even Venmo.
2. Using an APR calculation for EWA is misleading and inaccurate because: 1) APR is a calculation for a loan and this is not a loan, 2) EWA does not have an interest component, which is used to calculate APR, and 3) you cannot attach an APR (which is an annualized methodology) to a one-time flat fee.
3. This is no different from using an out-of-network ATM where the owner of the ATM is charging a flat fee and giving you their money which they recoup at a later time from you through your banking institution.

#### **Misinformation #3: “EWA creates a cycle of debt.”**

1. EWA has nothing to do with debt...EWA only changes the timing or frequency of the user's pay and not the amount of available pay.
2. Data shows that EWA users actually spend LESS and save MORE.
3. EWA does not charge interest, require minimum payments or rollover loans, which are all factors that truly create a cycle of debt.

#### **Misinformation #4: “Employers should pay for this service and not employees.”**

1. Our service absolutely supports the ability for employers to cover the minimal costs, however, as an employee benefit, this decision is between the employer and the employee.

#### **Misinformation #5: “It only costs \$0.05-\$0.08 for an EWA provider to conduct an instant transfer so why are you charging \$3.50.”**

1. This is a false and misleading statement. This cost, which is not even accurate, does not take into account the provider's cost of creating and operating the technology, cost of supporting their own employees, and the costs of operating a business. Further, and again much like an ATM fee, we are able to offer the FREE option because we also offer a paid option that some people choose to utilize.



## MEMORANDUM

**DATE:** January 20, 2025

**TO:** House Industry, Business and Labor Committee

**FROM:** Corey Krebs, Assistant Commissioner

**SUBJECT:** Neutral Testimony on House Bill No. 1393

Chairman Warrey and members of the House Industry, Business and Labor Committee, thank you for the opportunity to testify on House Bill No. 1393.

Mr. Chairman and members of the Committee, House Bill 1393 creates a new section of title 13 of the North Dakota Century Code to regulate earned wage access providers. The decision to regulate an industry and the specific approach to regulate the industry is a public policy decision, thus we are not advocating for or against this bill. I am here today to provide you with information about the earned wage access industry, how this regulation looks in different states, the approach this bill is taking, and to answer any question you may have.

Earned wage access is a financing product that allows people to borrow money against wages owed to them by their employer. There is a wide range of business models within this space, ranging from an employer paid benefit to their employees to high-cost products offered by independent third parties which are comparable to payday lending products. Effective annual percentage rates on these products typically range from as high as 320% or as low as 0%.

These companies typically will require a borrower to download an app. The app will link to the user's bank account and to the employer's payroll system. The employee makes the request for the funds and agrees to the fees associated with the financing product. Funds are then provided to the customer, typically less than 3 days of the request. On payday, the borrower will be paid the balance of the money owed to them by the employer and the earned wage access company will also be paid. Not every company's process looks exactly like this but follows this general process.

These products can be beneficial to consumers; however, there may be risk as well. The benefit is quick financing, and with regards to the employer provided or low fee products, a cheap source of funds. The risk is that not all products are low cost, and frequent use of the higher cost

products could put the consumer in a debt trap, a constant reliance upon a financing product which is expensive in the long term. This is a similar risk to the use of payday lending products.

States have taken different approaches to regulating earned wage access products. Some states have defined earned wage access transactions as a consumer loan, which would subject these products to traditional lending regulations such as the interest rate caps. Some states have defined earned wage access as a separate industry with disclosure rules but without other consumer protections such as maximum fee. Some states have established both disclosure requirements and maximum fees.

House bill 1393 falls into this last category, the bill requires both disclosures to the customer and establish a maximum fee of <sup>\$100</sup>~~\$10~~ per \$1,000 borrowed. Additionally, this bill requires the use of a tracking database and mandatory rest periods to limit the risk of the borrower falling into a debt trap. In this way, the bill establishes a similar regulatory framework for earned wage access transactions to comparable payday loan transactions. Finally, the bill exempts companies that offer low or no cost transactions from these restrictions.

We have a fiscal note on this bill. Based upon the experience of states which have licensed earned wage access companies, we estimate 16

companies may apply for licensure. Licensing and examination fees are estimated to generate \$43,000 in revenue over the biennium. Rolling out a program like this is time intensive, most notably the time to contract for and administer a tracking database and setting up an examination program. We need an additional FTE to do this. Salary and operating cost associated with the FTE for the biennium totals \$278,039.

Finally, there is a cost to the consumer related the tracking database established within this bill. This cost is not part of the fiscal note since it is paid directly by the consumer, it is not paid by the state. The database required within this bill is similar to the requirement of payday lenders, thus we assume the per transaction cost will be similar. Per transaction costs are estimated to be \$3 per transaction.

Mr. Chairman, thank you for the opportunity to provide this testimony. I would be happy to answer any questions the Committee may have.

# 2025 HOUSE STANDING COMMITTEE MINUTES

## Industry, Business and Labor Committee Room JW327C, State Capitol

HB1393  
2/4/2025

A BILL for an Act to amend and reenact section 26.1-03-10 of the North Dakota Century Code, relating to the publication of an abstract of annual statement.

4:30 p.m. Chairman Warrey opened the meeting.

Members Present: Chairman Warrey, Vice Chairman Ostlie, Vice Chairman Johnson, Representatives Bahl, Brown, Christy, Finley-DeVille, Grindberg, Kasper, Koppelman, D. Ruby, Schatz, Schauer, Vollmer

### **Discussion Topics:**

- Payday loan
- Employers, wages earned
- Subscribe to database

4:30 p.m. Representative Ostlie reported on possible proposed amendment language.

4:34 p.m. Corey Krebs, Deputy Commissioner, ND Department of Financial Institutions, summarized amendment changes.

4:55 p.m. Chairman Warrey adjourned the meeting.

*Diane Lillis, Committee Clerk*

# 2025 HOUSE STANDING COMMITTEE MINUTES

## Industry, Business and Labor Committee Room JW327C, State Capitol

HB1393  
2/11/2025

A BILL for an Act to amend and reenact section 26.1-03-10 of the North Dakota Century Code, relating to the publication of an abstract of annual statement.

4:17 p.m. Chairman Warrey opened the meeting.

Members Present: Chairman Warrey, Vice Chairman Ostlie, Vice Chairman Johnson, Representatives Bahl, Brown, Finley-DeVille, Grindberg, Kasper, Koppelman, D. Ruby, Schatz, Schauer, Vollmer

Member Absent: Representative Christy

### Discussion Topics:

- 22-page hog house
- Earned wage access
- Employer agreement
- Earned access space
- Salary advance
- Transactions into database

4:17 p.m. Representative Ostlie presented an amendment testimony #37196.

4:31 p.m. Representative Ostlie moved Adopt Amendment LC #25.1073.01001.

4:33 p.m. Representative D. Ruby seconded the motion.

Voice vote.

Motion passed.

4:33 p.m. Representative Ostlie moved Do Pass as amended.

4:33 p.m. Representative Bahl seconded the motion.

Representatives	Vote
Representative Jonathan Warrey	Y
Representative Mitch Ostlie	Y
Representative Landon Bahl	Y
Representative Collette Brown	Y
Representative Josh Christy	AB
Representative Lisa Finley-DeVille	Y
Representative Karen Grindberg	Y
Representative Jorin Johnson	Y

Representative Jim Kasper	Y
Representative Ben Koppelman	Y
Representative Dan Ruby	Y
Representative Mike Schatz	AB
Representative Austin Schauer	Y
Representative Daniel R. Vollmer	Y

Motion passed 12-0-2

4:34 p.m. Representative Ostlie will carry the bill.

4:34 p.m. Chairman Warrey closed the meeting.

*Diane Lillis, Committee Clerk*

February 11, 2025

75 2/12/25  
1 of 23

Sixty-ninth  
Legislative Assembly  
of North Dakota

## PROPOSED AMENDMENTS TO

### HOUSE BILL NO. 1393

Introduced by

Representative Dockter

Senator Klein

- 1 A BILL for an Act to create and enact a new chapter to title 13 of the North Dakota Century  
2 Code, relating to ~~payday lending organizations~~earned wage access providers; and to provide a  
3 penalty.

#### 4 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

- 5 **SECTION 1.** A new chapter to title 13 of the North Dakota Century Code is created and  
6 enacted as follows:

#### 7 **Definitions.**

8 As used in this chapter:

- 9 1. ~~"Business entity" means a limited liability company, partnership, or corporation~~  
10 ~~authorized to engage in business under the laws of this state. The term does not~~  
11 ~~include a single member limited liability company.~~  
12 ~~2.~~ a. "Charge" means:  
13 (1) The amount imposed by a provider for delivery or expedited delivery of  
14 proceeds to a consumer.  
15 (2) A subscription or membership imposed by a provider for a bona fide group  
16 of services that include earned wage access services.  
17 b. The term does not include a voluntary tip, gratuity, or other donation.  
18 2. "Commissioner" means the commissioner of financial institutions.  
19 3. "Consumer" means an individual who ~~is a resident of this state and who engages in or~~  
20 intends to engage in an earned income access transactionresides in this state.

1 ~~4. "Control" means:~~

2 ~~a. In the case of a business entity:~~

3 ~~(1) A direct or indirect ownership;~~

4 ~~(2) The right to control twenty five percent or more of the voting shares of the~~  
5 ~~business entity; or~~

6 ~~(3) The ability of an individual to elect a majority of the directors or otherwise~~  
7 ~~affect a change in policy of the business entity.~~

8 ~~b. In the case of any other entity, the ability to exchange the principals of the~~  
9 ~~organization, whether active or passive.~~

10 ~~5. "Debt collection" means the:~~

11 ~~a. Act of collecting or attempting to collect debts owed or due or asserted to be~~  
12 ~~owed or due another; and~~

13 ~~b. Solicitation of debts for the purpose of collection and accepting assignment of~~  
14 ~~debts for the purpose of collection.~~

15 ~~6.4. "Consumer-directed wage access services" means delivering to a consumer access to~~  
16 ~~earned but unpaid income that is based on the consumer's representations and the~~  
17 ~~provider's reasonable determination of the consumer's earned but unpaid income.~~

18 ~~5. "Earned but unpaid income" means salary, wages, or compensation that have been~~  
19 ~~earned or have accrued to the benefit of a consumer but have not been paid by an~~  
20 ~~obligor to that consumer for labor or services performed for or on behalf of an obligora~~  
21 ~~consumer or an employer has represented, and that a provider reasonably has~~  
22 ~~determined, has been earned or accrued to the benefit of the consumer in exchange~~  
23 ~~for the consumer's provision of services to the employer or on behalf of the employer,~~  
24 ~~including on an hourly, project-based, piecework, or other basis, and including~~  
25 ~~circumstances in which the consumer is acting as an independent contractor of the~~  
26 ~~employer, but has not, at the time of the payment of proceeds, been paid to the~~  
27 ~~consumer by the employer.~~

28 ~~7. "Earned income access rate cap" means the limit on the amount that may be charged~~  
29 ~~to or received from a consumer, over which the consumer has no option, for an earned~~  
30 ~~income access transaction established by the department.~~

- 1 — ~~8. "Earned income access transaction" means the payment of earned but unpaid income~~  
2 ~~to a consumer at a time other than the consumer's regular payday or other regularly~~  
3 ~~scheduled time on which the obligor pays to the consumer wages or compensation~~  
4 ~~earned or that have accrued to the benefit of consumer income.~~
- 5 — ~~9. "Earned income access provider" or "provider" means a person that:~~  
6 ~~a. Provides, or offers to provide, on behalf of an obligor earned income access~~  
7 ~~transactions to consumers earning wages or compensation from the obligor; or~~  
8 ~~b. Offers earned income access transactions to, or enters earned income~~  
9 ~~transactions with, consumers.~~
- 10 — ~~10. "Exempt organization" means:~~  
11 ~~a. Any banking organization, foreign banking corporation licensed by the~~  
12 ~~department to transact business in this state, national bank, federal savings~~  
13 ~~bank, federal savings and loan association, federal credit union, or any bank,~~  
14 ~~trust company, savings bank, savings and loan association, or credit union~~  
15 ~~organized under the laws of this state, another state, or the United States.~~  
16 ~~b. A service provider, including a payroll service provider, that verifies available~~  
17 ~~earnings, but is not contractually obligated to pay earned but unpaid income as~~  
18 ~~part of an earned income access transaction; or~~  
19 ~~c. An obligor that offers a portion of salary, wages, or compensation directly to its~~  
20 ~~employees or independent contractors before the normally scheduled pay date.~~
- 21 — ~~11. "Fees" means any amount charged or received by a provider to a consumer for an~~  
22 ~~earned income access transaction, including amounts paid voluntarily as described in~~  
23 ~~this chapter.~~
- 24 — ~~12. "Licensee" means an earned income access provider licensed by the commissioner.~~
- 25 — ~~13. "Nonrecourse" means the unavailability of any legal cause of action or remedy against~~  
26 ~~a consumer relating to an earned income access transaction.~~
- 27 — ~~14. "Notice" means communication from the provider to the consumer in a clear and~~  
28 ~~conspicuous manner.~~
- 29 — ~~15. "Obligor" means a person obligated to pay a consumer any sum of money on an~~  
30 ~~hourly, project-based, piecework, or other basis for labor or services performed by the~~  
31 ~~consumer for or on behalf of that person. The term does not include a customer of an~~

1 ~~obligor or another third party that has an obligation to make any payment to a~~  
2 ~~consumer based solely on the consumer's agency relationship with the obligor.~~

3 16.6. "Earned wage access services" means providing consumer-directed wage access  
4 services or employer-integrated wage access services.

5 7. a. "Employer" means:

6 (1) A person who employs a consumer.

7 (2) Any other person who is contractually obligated to pay a consumer earned  
8 but unpaid income in exchange for the consumer's provision of services to  
9 the employer or on behalf of the employer including on an hourly, project-  
10 based, piecework, or other basis and including circumstances in which the  
11 consumer is acting as an independent contractor with respect to the  
12 employer.

13 b. The term does not include:

14 (1) A customer of an employer.

15 (2) Any other person whose obligation to make a payment of salary, wages,  
16 compensation, or other income to a consumer is not based on the provision  
17 of services by that consumer for or on behalf of the person.

18 8. "Employer-integrated wage access services" means delivering to a consumer access  
19 to earned but unpaid income that is based on employment, income, and attendance  
20 data obtained directly or indirectly from an employer or an employer's payroll service  
21 provider.

22 9. "Outstanding proceeds" means proceeds remitted to a consumer by a provider that  
23 have not yet been repaid to the provider.

24 10. "Proceeds" means funds received by a consumer under an earned income access  
25 transaction.

26 11. a. "Provider" or "earned wage access services provider" means a person that is in  
27 the business of providing earned wage access services to consumers.

28 b. The terms do not include:

29 (1) A service provider, such as a payroll service provider, whose role may  
30 include verifying the available earnings but is not contractually obligated to  
31 fund any proceeds delivered as part of an earned wage access service; or

1                   (2) An employer that offers a portion of salary, wages, or compensation directly  
2                   to its employees or independent contractors before the normally scheduled  
3                   pay date.

4                   **Administration.**

5                   The department of financial institutions shall administer and enforce this chapter. The  
6                   department has the power to promulgate rules, in accordance with chapter 28-32, as necessary  
7                   to carry out the provisions of this chapter.

8                   **License.**

- 9                   1. An individual or business entity, except for an exempt organization as defined in this  
10                  chapter, may not engage in the business of providing or offering earned income  
11                  access transactions to consumers, or enter an earned income access transaction with  
12                  a consumer, without first obtaining a license under this chapter. An individual or  
13                  business entity is considered to be engaging in the business of earned wage access  
14                  service if the consumer is located in this state.
- 15                  2. An application for a license under this chapter must be in writing, under oath, and in  
16                  the form prescribed by the commissioner.
- 17                  3. Each applicant shall maintain a tangible net worth of at least twenty-five thousand  
18                  dollars or other amount as the commissioner may determine necessary to protect the  
19                  public interests.
- 20                  4. The financial responsibility, financial condition, business experience, character, and  
21                  general fitness of the applicant must reasonably warrant the belief that the applicant's  
22                  business will be conducted lawfully and fairly. In determining whether this qualification  
23                  is met and for the purpose of investigating compliance with this chapter, the  
24                  commissioner may review and consider the relevant business records and the capital  
25                  adequacy of the applicant and the competence, experience, integrity, and financial  
26                  ability of any person that is a member, partner, director, officer, or twenty-five percent  
27                  or more shareholder of the applicant, and whether the applicant has filed any  
28                  appropriate registration with the secretary of state.
- 29                  5. Each applicant shall establish that neither the individual nor any officer, director, or  
30                  proposed employee of the applicant has been convicted of a crime involving

1 dishonesty, fraud, or breach of trust. A deferred imposition of sentence or federal  
2 pretrial diversion must be considered a conviction for purposes of this section.

3 6. Each applicant shall maintain a bond issued by a surety company authorized to  
4 conduct business in this state, in the amount of fifty thousand dollars, and the  
5 commissioner may require a larger bond if the commissioner determines the larger  
6 bond is necessary based on the volume of the applicant's business.

7 7. Each application for a license must include:

8 a. An application fee as determined by the commissioner;

9 b. The legal name of the applicant, residence of the applicant, business address of  
10 the applicant, and, if applicable, the address at which earned wage access  
11 service is provided if different from the business address and, if the applicant is a  
12 business entity, the name and address of every member, officer, and director;

13 c. The location at which the registered office of the applicant is located; and

14 d. Any other data or information the commissioner may require with respect to the  
15 applicant and the applicant's directors, officers, members, and shareholders.

16 8. The commissioner may establish relationships or contracts with a nationwide  
17 multistate licensing system and registry or other entities designated by a nationwide  
18 multistate licensing system and registry to collect and maintain records and process  
19 transaction fees or other fees related to licensees or other persons subject to the  
20 chapter. The applicant shall pay directly to the nationwide multistate licensing system  
21 any additional fee relating to participation in the nationwide multistate licensing  
22 system.

23 9. In connection with an application for licensure as an earned wage access service  
24 provider, or any license renewals, the applicant shall furnish to the nationwide  
25 multistate licensing system information concerning the applicant's identity, which may  
26 include:

27 a. Fingerprints for submission to the federal bureau of investigation and any  
28 governmental agency or entity authorized to receive information for a state,  
29 national, and international criminal history background check;

- 1           b. Personal history and experience in a form prescribed by the nationwide multistate  
2           licensing system, including the submission of authorization for the nationwide  
3           multistate licensing system and the commissioner to obtain:  
4           (1) An independent credit report obtained from a consumer reporting agency  
5           described in the Fair Credit Reporting Act [15 U.S.C. 1681a]; and  
6           (2) Information related to any administrative, civil, or criminal findings by any  
7           governmental jurisdiction; and  
8           c. Any other documents, information, or evidence the commissioner deems  
9           necessary.  
10          10. The commissioner may use the nationwide multistate licensing system and registry as  
11          a channeling agent for requesting information from and distributing information to the  
12          department of justice or any governmental agency or to any other source.  
13          11. Upon receipt of a completed application, the commissioner shall determine whether  
14          the qualifications prescribed under this chapter are satisfied. The commissioner may  
15          refuse to issue the license if the commissioner finds the financial responsibility,  
16          experience, character, or general fitness of the applicant or any person associated  
17          with the applicant are insufficient to warrant the belief the business will be conducted  
18          honestly, fairly, and efficiently. If the commissioner determines the qualifications are  
19          satisfied and approves the documents, the commissioner shall issue a license to  
20          engage in the earned wage access service business.

21          **Denial of license - Hearing - Notification of change in status.**

- 22          1. If the commissioner determines an applicant is not qualified to receive a license, the  
23          commissioner shall notify the applicant, in writing, stating the application is denied and  
24          stating the basis for denial. If the commissioner denies an application, the applicant  
25          may request a hearing in accordance with chapter 28-32 before the commissioner on  
26          the question of whether the license should be granted. The hearing must be scheduled  
27          within thirty days after receipt of the request. At the hearing, the commissioner shall  
28          reconsider the application and issue a written order granting or denying the  
29          application. If an applicant requests a hearing and the commissioner's denial is  
30          upheld, the commissioner may assess the reasonable out-of-pocket costs incurred for  
31          the hearing to the applicant.

- 1       2. Within fifteen days of the occurrence of any of the following events, a licensee shall file  
2       a written report with the commissioner describing the event and the event's expected  
3       impact on the activities of the licensee:
- 4       a. The filing for bankruptcy or reorganization by the licensee.  
5       b. The institution of revocation or suspension proceedings against the licensee by  
6       any governmental authority.  
7       c. The filing of any criminal charges involving dishonesty, fraud, or breach of trust of  
8       the licensee or any of the licensee's members, directors, officers, or  
9       shareholders.  
10      d. Any other event the commissioner identifies by rule.

11       **License renewal.**

12       A license may be renewed upon application, continued qualification for licensure as  
13       required in this chapter, and the payment to the commissioner of the annual license fee, which  
14       is not subject to refund, before December first of each year. A renewal application may be  
15       denied upon the same grounds as would justify denial of an initial application for licensure.  
16       When a licensee has been delinquent in renewing the licensee's license, the department may  
17       charge an additional fee of fifty dollars for the renewal of the license. An application must be  
18       filed within forty-five days from the date change of controlling ownership is completed. For  
19       purposes of this section "controlling ownership" means ownership of twenty-five percent or  
20       more of voting shares, or the power to appoint the majority of the board of directors. The earned  
21       wage access license granted to the previous owner continues in effect to the new purchaser  
22       until the application is either granted or denied.

23       **Exemptions and applicability.**

- 24       1. This chapter does not apply to banks, credit unions, or savings and loan associations.  
25       2. Notwithstanding any other provision of law, earned wage access services offered and  
26       provided by a provider in accordance with this chapter may not be considered:
- 27       a. A violation of any law governing deductions from payroll, salary, wages,  
28       compensation, or other income or the purchase, sale or assignment of, or an  
29       order for earned but unpaid income.  
30       b. A loan or other form of credit or debt. The provider may not be considered a  
31       creditor, debt collector, or lender.

- 1 c. Money transmission. The provider may not be considered a money transmitter  
2 with respect to the provision of any earned wage access services.
- 3 3. Notwithstanding any other provision of law, charges, voluntary tips, gratuities, or other  
4 donations paid in accordance with this chapter to a provider may not be considered  
5 interest or finance charges.
- 6 4. If there is a conflict between the provisions of this chapter and any other provision of  
7 law, the provisions of this chapter prevail.

8 **Records.**

- 9 1. Each licensee shall keep and use in the licensee's business any books, accounts, and  
10 records the commissioner may require. A licensee shall preserve required books,  
11 accounts, and records for at least six years. The records of a licensee may be  
12 maintained electronically if the records can be reproduced upon request by the  
13 commissioner and within the time required under this section. When a licensee ceases  
14 operations for any reason, the licensee shall inform the commissioner of the location  
15 of the records. In addition, the licensee shall provide the name of the individual  
16 responsible for maintenance of the records. The licensee shall notify the commissioner  
17 within ten business days of the change of the location of the records or the change of  
18 the individual responsible for maintenance of the records.
- 19 2. An applicant, licensee, or other person subject to this chapter shall comply with any  
20 request for information, documents, or other records from the commissioner within the  
21 time specified in the request, which must be a minimum of ten days, or, if no time is  
22 specified, within thirty days of receipt of the request by the commissioner. If the  
23 request for information is related to a new application or renewal of an existing  
24 application and is not received by the commissioner within the time specified in the  
25 request, or within thirty days of receipt of the request, the commissioner may deny the  
26 application.

27 **Suspension, nonrenewal, or revocation of license.**

- 28 1. The commissioner may issue and serve upon any licensee an order suspending or  
29 revoking a license if the commissioner finds the licensee has been convicted of a  
30 felony or any crime involving dishonesty, fraud, or breach of trust, or the licensee  
31 knowingly or through lack of reasonable care:

- 1 a. Failed to pay the annual license fee imposed under this chapter or any
- 2 examination fee imposed by the commissioner;
- 3 b. Committed any fraud, engaged in any dishonest activities, or made any
- 4 misrepresentations;
- 5 c. Violated this chapter or any rule adopted by the commissioner under this chapter
- 6 or violated any other law in the course of the licensee's business activities as a
- 7 licensee;
- 8 d. Made false statements in the application for the license;
- 9 e. Engaged in any unfair or deceptive acts, practices, or advertising in the conduct
- 10 of an earned wage access business;
- 11 f. Failed to fully cooperate with an examination or investigation authorized by the
- 12 commissioner;
- 13 g. Continued to allow any current or former officer, director, or employee to provide
- 14 earned income access services or participate in any earned income service
- 15 transaction after the officer, director, or employee has been suspended or
- 16 removed by an order issued by the commissioner;
- 17 h. Failed to maintain the required bond;
- 18 i. Failed to maintain any required registration with the secretary of state; or
- 19 j. No longer meets the requirements for licensure under this chapter.
- 20 2. An order issued by the commissioner under this section must contain a notice of
- 21 opportunity for hearing under chapter 28-32.
- 22 3. If a hearing is not requested within twenty business days of the date of service upon
- 23 the licensee, the order becomes final.

24 **Temporary suspension - Appeal.**

- 25 1. If the commissioner determines probable cause exists for the suspension or
- 26 revocation of a license, that enforcement of this chapter requires immediate
- 27 suspension of the license pending investigation, or that probable cause exists to
- 28 indicate the continued operation of a licensee's business may create a significant risk
- 29 of serious and ongoing harm to the public while a disciplinary action is pending, the
- 30 commissioner may, upon written notice to the licensee, issue an ex parte order
- 31 suspending the license.

- 1       2. An ex parte order remains in effect until a final order is issued after a full hearing and  
2       appeal is conducted in accordance with chapter 28-32 or until the suspension is  
3       otherwise terminated by the commissioner. If a hearing is not requested within twenty  
4       business days of the date of service of the order upon the licensee, the order becomes  
5       final.
- 6       3. The commissioner shall conduct a full hearing on the merits of the evidence  
7       warranting immediate suspension to determine if disciplinary action must be taken  
8       against the licensee.
- 9       4. The licensee may appeal the ex parte temporary suspension order before a full  
10      hearing is conducted. For purposes of appeal, the district court shall decide whether  
11      the commissioner acted reasonably or arbitrarily. The court shall give priority to the  
12      appeal for prompt disposition.

13      **Suspension and removal of earned wage access service provider officers and**  
14      **employees.**

- 15      1. The commissioner may issue ~~and serve~~ upon any current or former officer, director, or  
16      employee of a licensed business entity, and upon the licensee involved, an order  
17      stating:
  - 18          a. That the current or former officer, director, or employee is ~~willfully~~ engaging or  
19          has ~~willfully~~ engaged in any of the following conduct:
    - 20              (1) Violation of a law, rule, order, or written agreement with the commissioner;
    - 21              (2) Harassment or abuse, false or misleading representations to the  
22              commissioner, or unfair practices; or
    - 23              (3) An act of commission or omission or practice which constitutes breach of  
24              trust or a breach of fiduciary duty.
  - 25          b. The term of suspension or removal from employment and participation within the  
26          conduct or the affairs of an earned wage access service provider.
- 27      2. An order issued by the commissioner under this section must contain a notice of  
28      opportunity for hearing under chapter 28-32. The order becomes effective immediately  
29      upon ~~service~~issuance on the officer, director, or employee, and remains in effect  
30      pending the outcome of a hearing held in accordance with chapter 28-32.

- 1       3. If a hearing is not requested within twenty business days of the date the order is  
2       served, the order becomes final and the officer, director, or employee must be  
3       removed from any further participation in the affairs of, or employment with, the  
4       licensee.
- 5       4. A contested or default suspension or removal order is effective immediately upon  
6       serviceissuance of the final order on the current or former officer or employee and  
7       upon the licensee. A consent order is effective as agreed upon in the order. Any  
8       current or former officer or employee suspended or removed from employment and  
9       participation within the conduct or the affairs of a licensee under this section is not  
10      eligible, while under suspension or removal, to be employed or otherwise participate in  
11      the affairs of any financial corporation, financial institution, credit union, or any other  
12      entity licensed by the department of financial institutions.
- 13      5. When a current or former officer or employee or other person participating in the  
14      conduct of the affairs of a licensee is charged with a felony in state or federal court  
15      which involves dishonesty, fraud, or breach of trust, the commissioner may  
16      immediately suspend the individual from office or prohibit the individual from further  
17      participation in the earned wage access service provider affairs, or both. The order is  
18      effective immediately upon serviceissuance of the order on the licensee and the  
19      individual charged and remains in effect until the criminal charge is finally disposed of  
20      or until modified by the commissioner. If a judgment of conviction, federal pretrial  
21      diversion, or similar state order or judgment is entered, the commissioner may order  
22      the suspension or prohibition be made permanent. A finding of not guilty or other  
23      disposition of the charge does not preclude the commissioner from pursuing  
24      administrative or civil remedies.
- 25      6. The commissioner may deny an application to renew a license if the licensee no  
26      longer meets the criteria for licensure or otherwise fails to comply with this chapter.

27      **Violations - Cease and desist orders - Penalties.**

- 28      Except as otherwise provided in this chapter, any person that willfully provides earned wage  
29      access services without a license is guilty of a class C felony and any person that violates any  
30      other provision of this chapter or any rule adopted under this chapter is guilty of an infraction. If  
31      the commissioner finds, whether without a hearing or after a hearing if a hearing is requested

1 within twenty days of notice of an action by the commissioner, a person violated this chapter or  
2 any rule adopted under chapter, the commissioner may:

- 3     1. Order the person to cease and desist violating this chapter or the rule;
- 4     2. Require the refund of any feescharges collected by the person in violation of this  
5       chapter; or
- 6     3. Impose a civil penalty not to exceed one hundred thousand dollars per violation upon  
7       a person that willfully violates a law, rule, written agreement, or order under this  
8       chapter. An interested party may appeal the assessment of a civil money penalty  
9       under chapter 28-32 by filing a written notice of appeal within twenty days after service  
10      of the assessment of civil money penalties. A civil money penalty collected under this  
11      section must be paid to the state treasurer and deposited in the financial institutions  
12      regulatory fund.

13 **Investigations and examinations.**

- 14     1. A licensee shall pay an examination or visitation fee, and the commissioner shall  
15       charge the licensee for the actual cost of the examination or visitation at an hourly rate  
16       set by the commissioner which is sufficient to cover all reasonable expenses  
17       associated with the examination or visitation.
- 18     2. a. Except as otherwise provided in Public Law 110-289, section 1512, the  
19       requirements under any federal law, chapter 44-04, or section 6-01-07.1,  
20       regarding the privacy or confidentiality of any information or material provided to  
21       the nationwide multistate licensing system and registry, and any privilege arising  
22       under federal or state law, including the rules of any federal or state court, with  
23       respect to the information or material, continue to apply to the information or  
24       material after the information or material has been disclosed to the nationwide  
25       multistate licensing system and registry. Any information and material may be  
26       shared with all state and federal regulatory officials with mortgage industry  
27       oversight authority without the loss of privilege or the loss of confidentiality  
28       protections provided by federal law, chapter 44-04, or section 6-01-07.1.
- 29     b. The commissioner may enter agreements or sharing arrangements with other  
30       governmental agencies, the conference of state bank supervisors, the American

1 association of residential mortgage regulators, or other associations representing  
2 governmental agencies.

3 c. Information or material subject to a privilege or confidentiality under this section is  
4 not subject to:

5 (1) Disclosure under any federal or state law governing the disclosure to the  
6 public of information held by an officer or an agency of the federal  
7 government or the respective state; or

8 (2) Subpoena or discovery, or admission into evidence, in any administrative  
9 process, unless with respect to any privilege held by the nationwide  
10 multistate licensing system and registry with respect to the information or  
11 material, the person to which the information or material pertains waives, in  
12 whole or in part, in the discretion of the person, that privilege.

13 d. The commissioner shall take all necessary steps, under any applicable law or  
14 rule, to protect the disclosure of information or material subject to a privilege or  
15 confidentiality under this section. Records subject to a privilege or confidentiality  
16 may be required to be disclosed only pursuant to an order of the court. The court  
17 ordering the disclosure shall issue a protective order to protect the confidential  
18 nature of the records.

19 ~~**Documentation of earned wage access transaction and notification to consumer.**~~

20 ~~1. Each earned wage access transaction must be documented by a written or electronic~~  
21 ~~agreement signed or similarly authenticated by the consumer. The original agreement~~  
22 ~~must contain:~~

23 ~~a. The name of the licensee.~~

24 ~~b. The transaction date.~~

25 ~~c. The amount of the obligation.~~

26 ~~d. A statement of the total amount of fees charged, expressed as a dollar amount.~~

27 ~~e. The name and signature of the individual who signs the agreement on behalf of~~  
28 ~~the licensee.~~

29 ~~f. The transaction number assigned by the database.~~

30 ~~g. A statement that indicates the maximum term of the transaction may not exceed~~  
31 ~~fourteen calendar days.~~

- 1 ~~2. The earned wage access service agreement must include in no less than ten-point~~  
2 ~~font, the following notification: State law prohibits this business from allowing~~  
3 ~~consumers to have earned wage access totaling more than one thousand dollars~~  
4 ~~outstanding at any time.~~
- 5 ~~3. Before distributing funds as part of an earned wage access transaction, a licensee~~  
6 ~~shall provide to the consumer a clear and conspicuous notice which indicates:~~
  - 7 ~~a. An earned wage access service transaction is not intended to meet long term~~  
8 ~~financial needs.~~
  - 9 ~~b. The customer should use an earned wage access service transaction only to~~  
10 ~~meet short term cash needs.~~
  - 11 ~~c. The schedule of fees charged for each earned wage access transaction.~~
  - 12 ~~d. Any additional information required under federal law.~~
- 13 ~~4. This section does not apply to earned wage access transactions in which the fees or~~  
14 ~~charges are paid by the consumer's employer, or for earned wage access transactions~~  
15 ~~with fees and charges which total less than an effective annual percentage rate of less~~  
16 ~~than thirty six percent.~~
- 17 ~~5. A licensee may charge any fees for the earned wage access service, not to exceed~~  
18 ~~ten percent of the amount paid to the consumer by the licensee. A fee may not be~~  
19 ~~deemed interest for any purpose of law. No other fee or charge may be charged for~~  
20 ~~the earned wage access service, except that a fee, not to exceed the cost to the~~  
21 ~~licensee, may be charged for registering a transaction on a database administered or~~  
22 ~~authorized by the commissioner. No fee, including the fee for registering a transaction~~  
23 ~~on a database, may be charged when the consumer elects the no-cost option.~~
- 24 ~~6. A licensee may not disburse more than a total of one thousand dollars to a consumer~~  
25 ~~across earned wage access service transactions. If disbursing an additional amount~~  
26 ~~would result in the consumer having more than one thousand dollars outstanding~~  
27 ~~across all licensees, the licensee may disburse only an amount that brings the total to~~  
28 ~~one thousand dollars.~~
- 29 ~~7. A licensee may not engage in an earned wage access service transaction with a~~  
30 ~~consumer who has an aggregate value of all outstanding obligations from any one~~  
31 ~~consumer exceeding one thousand dollars which is payable to the same or any other~~

1 licensee. A licensee may not enter a new earned wage access service transaction with  
2 a consumer within three business days of that consumer's completion of a previous  
3 earned wage access service transaction. A licensee may rely on a written or electronic  
4 representation of a consumer regarding the existence of any outstanding obligations  
5 for earned wage access transactions held by a licensee other than the licensee  
6 receiving the representation until the database provided for under subsection 8 is  
7 operational, and after that time may not rely on a consumer's representation but must  
8 verify the fact using the database.

9 8. The commissioner shall administer or authorize the development of a database in  
10 which each transaction must be recorded for the purpose of preventing violations of  
11 this section. The commissioner shall adopt rules governing the creation, structure, and  
12 use of the database.

13 9. An earned wage access provider may rely on the information contained in the  
14 database as accurate and is not subject to any administrative penalty or civil liability  
15 due to relying on inaccurate information contained in the database.

16 10. A consumer agreeing to an electronic earned wage access service transaction may  
17 repay the obligation at any time before the agreed-upon date. A consumer may  
18 rescind, at no cost, any transaction by the close of the business day following the day  
19 on which the consumer receives payment from the licensee. If a consumer agreeing to  
20 an electronic earned wage access service transaction rescinds the transaction, the  
21 licensee must facilitate the repayment of the funds through the same electronic means  
22 the licensee used to deliver the funds to the customer.

23 11. If an electronic debit is returned to the licensee from a payer financial institution due to  
24 insufficient funds, closed account, or a stop payment order, the licensee may seek civil  
25 remedies available to collect the obligation.

26 12. A consumer who has authority to authorize an electronic debit and enters an earned  
27 wage access service agreement is not subject to a criminal penalty relating to the  
28 electronic debit or the earned wage access service agreement unless the consumer's  
29 account was closed on the original date of the transaction. A licensee may not pursue  
30 or threaten to pursue criminal penalties against a consumer for criminal penalties  
31 prohibited by this subsection.

- 1 — ~~13. A licensee may not engage in unfair or deceptive acts, practices, or advertising in the~~  
2 ~~conduct of an earned wage access service business.~~
- 3 — ~~14. The amount paid to the consumer by the licensee in an earned wage access service~~  
4 ~~transaction must be paid in the form of electronic credit to the customer's account.~~
- 5 — ~~15. A licensee may enter a workout agreement with the consumer if the consumer~~  
6 ~~believes financial hardship prevents the consumer from paying off the earned wage~~  
7 ~~access service transaction at the end of the original agreement. The workout~~  
8 ~~agreement must outline the repayment terms in writing and must require weekly,~~  
9 ~~biweekly, or monthly even installments not to exceed twelve months. An additional~~  
10 ~~interest or fee may not be charged as part of this workout and the earned wage~~  
11 ~~access service provider shall continue to report the transaction as an outstanding~~  
12 ~~earned wage access service transaction on the database administered by the~~  
13 ~~commissioner. Entering a workout agreement is voluntary on the part of the earned~~  
14 ~~wage access service provider and the consumer.~~
- 15 — ~~16. A licensee may not renew, repay, refinance, or consolidate an earned wage access~~  
16 ~~service transaction with the proceeds of another earned wage access service~~  
17 ~~transaction with that licensee by the consumer. It is presumed that an earned wage~~  
18 ~~access service transaction initiated within three business days before completion of an~~  
19 ~~earned wage access service transaction is a violation of this subsection.~~
- 20 — ~~17. A licensee or any agent of a licensee that willfully violates this section is guilty of a~~  
21 ~~class A misdemeanor.~~
- 22 — ~~18. If an earned income access provider takes custody of a consumer's earned but unpaid~~  
23 ~~income before paying proceeds to the consumer, the provider shall ensure the~~  
24 ~~proceeds are fully insured by the federal deposit insurance corporation at the~~  
25 ~~consumer's individual account level. At least quarterly, a provider shall deliver written~~  
26 ~~notice to each consumer to whom it has paid proceeds in that quarter an itemization of~~  
27 ~~transactions and costs, the total amount the consumer has paid in fees, information on~~  
28 ~~how to report complaints to the provider and to the commissioner, definitions of terms~~  
29 ~~used in the notice, and an explanation of the costs of the services provided.~~
- 30 — ~~19. It is a violation of this chapter to conduct an earned income access transaction unless:~~  
31 ~~a. The transaction is nonrecourse;~~

- 1 ~~b. The provider does not engage in debt collection activity or retain the services of~~  
2 ~~another to engage in debt collection activity in connection with the earned income~~  
3 ~~access transaction and does not convey the debt itself;~~
- 4 ~~c. If repayment is to be made through a debit of a consumer's account, the debit is~~  
5 ~~made in accordance with rules established by the commissioner;~~
- 6 ~~d. The provider charges or receives a fee for the earned income access transaction~~  
7 ~~that does not exceed the earned income access rate cap or charges or receives~~  
8 ~~no fee for a transaction;~~
- 9 ~~e. No portion of the earned but unpaid income to be paid as part of the earned~~  
10 ~~income access transaction is used before receipt by the consumer to settle or~~  
11 ~~pay down an obligation arising from a prior earned income access transaction;~~  
12 ~~and no proceeds roll over or are structured in any way to create any continuing~~  
13 ~~obligation to the provider on the part of a consumer;~~
- 14 ~~f. The provider offers the consumer at least one reasonable option to obtain~~  
15 ~~proceeds at no cost to the consumer and clearly explains how to elect a no-cost~~  
16 ~~option;~~
- 17 ~~g. The consumer receives the proceeds no less than three business days after a~~  
18 ~~consumer's request for no-fee procession, no less than one business day after a~~  
19 ~~consumer's request for processing subject to a fee, and no less than one~~  
20 ~~business day before the next regularly scheduled date on which the obligor is~~  
21 ~~scheduled to pay earned wages or income to the consumer;~~
- 22 ~~h. Before a consumer enters the earned income access transaction, the provider~~  
23 ~~gives the consumer written notice, of all fees associated with the earned income~~  
24 ~~access transaction and the full potential cost of the transaction, including the cost~~  
25 ~~expressed as an annual percentage rate;~~
- 26 ~~i. If the provider offers consumers the opportunity to pay an additional amount for~~  
27 ~~an earned income access transaction voluntarily, including a tip or donation;~~
- 28 ~~(1) The provider gives notice to the consumer in writing that paying an~~  
29 ~~additional amount is not required for the consumer to receive the proceeds;~~  
30 ~~and~~

- 1 ~~(2) The provider offers zero dollars among any amounts suggested to the~~  
2 ~~consumer by, for example, offering amount options from which the~~  
3 ~~consumer may select or pre-filling an amount in any form used in the~~  
4 ~~transaction process, or otherwise using a transaction process designed to~~  
5 ~~require the consumer to take affirmative action to avoid or opt-out of paying~~  
6 ~~an additional amount;~~
- 7 ~~j. The provider does not charge a late fee or prepayment penalty on the earned~~  
8 ~~income access transaction;~~
- 9 ~~k. The provider does not pull a credit report or otherwise assess credit risk of the~~  
10 ~~consumer prior to, during, or after the earned income access transaction except~~  
11 ~~that the provider may verify the consumer's source of income as part of~~  
12 ~~determining the amount of the proceeds;~~
- 13 ~~l. The provider does not report on the earned income access transaction to a~~  
14 ~~consumer reporting agency prior to, during, or after the transaction;~~
- 15 ~~m. The provider does not require a consumer to waive the right to class action to~~  
16 ~~engage in an earned income access transaction;~~
- 17 ~~n. The provider gives a consumer written notice of any amendment to the contract~~  
18 ~~or terms of service for earned income access transactions, and the consumer~~  
19 ~~agrees to the amendments before proceeding with an earned income access~~  
20 ~~transaction to which the amendments would apply;~~
- 21 ~~o. If the provider charges a subscription or membership fee it is optional and must~~  
22 ~~be for a bona fide group of services that include earned income access~~  
23 ~~transactions; and~~
- 24 ~~p. The consumer is eighteen years of age or older.~~
- 25 ~~20. Transactions made in accordance with this section may not be subject to usury laws.~~
- 26 ~~**Advertising:**~~
- 27 ~~1. An advertisement for an earned income access transaction service may not be~~  
28 ~~misleading or otherwise deceptive.~~
- 29 ~~2. An advertisement for earned income access transaction service shall clearly and~~  
30 ~~accurately disclose the costs of the service to consumers.~~

~~3. The commissioner may adopt rules governing advertising of earned income transaction services consistent with the purposes of this section.~~

**Required acts and practices.**

A person required to be licensed under this chapter shall:

1. Develop and implement policies and procedures to respond to questions raised by consumers and address complaints from consumers in an expedient manner.
2. Offer to the consumer at least one reasonable option to obtain proceeds at no cost to the consumer and clearly explain how to elect the no-cost option when the person offers a consumer the option to receive proceeds for a charge or solicits an optional tip, gratuity, or other donation.
3. Before entering into an agreement with a consumer for the provision of earned wage access services:
  - a. Inform the consumer of the consumer's rights under the agreement; and
  - b. Fully and clearly disclose all charges associated with the earned wage access services.
4. Inform the consumer of any material changes to the terms and conditions of the earned wage access services before implementing those changes for that consumer.
5. Allow the consumer to cancel use of the provider's earned wage access services at any time, without incurring a cancellation charge imposed by the provider.
6. Comply with all applicable local, state, and federal privacy and information security laws.
7. If soliciting, charging, or receiving a tip, gratuity, or other donation from a consumer, clearly and conspicuously disclose to the consumer immediately before each transaction that a tip, gratuity, or other donation amount may be zero and is voluntary.
8. If soliciting, charging, or receiving a tip, gratuity, or other donation from a consumer, clearly and conspicuously disclose in its service contract with the consumer and elsewhere that tips, gratuities, or donations are voluntary and that the offering of earned wage access services, including the amount of proceeds a consumer is eligible to request and the frequency with which proceeds are provided to a consumer, is not contingent on whether the consumer pays a tip, gratuity, or other donation or on the size of the tip, gratuity, or other donation.

9. Provide proceeds to a consumer by any means mutually agreed upon by the consumer and the provider.

10. If the provider will seek repayment of outstanding proceeds or payment of charges or other amounts owed, including voluntary tips, gratuities, or other donations, in connection with the activities covered by this chapter, from a consumer's account at a depository institution, including by means of electronic fund transfer:

a. Comply with applicable provisions of the Electronic Fund Transfer Act of 1978, [15 U.S.C. 1693-1693r], and regulations adopted under the the Electronic Fund Transfer Act; and

b. Reimburse the consumer for the full amount of any overdraft or nonsufficient funds charges imposed on a consumer by the consumer's depository institution which were caused by the provider attempting to seek payment of any outstanding proceeds, charges, or other payments, in connection with the activities covered by this chapter, including voluntary tips, gratuities, or other donations, on a date before, or in an incorrect amount from, the date or amount disclosed to the consumer. The provider is not subject to the requirements in this subdivision with respect to payments of outstanding proceeds or charges incurred by a consumer through fraudulent or other unlawful means.

**Prohibited acts and practices.**

1. A person required to be licensed under this chapter may not:

a. Make or cause to be made any material false statement or representation in any application or other document or statement required to be filed under any provision of this chapter, or to omit any material statement or fact necessary to make the statements not misleading.

b. Fail to make disclosures as required by this chapter and rules adopted under this chapter.

c. Fail to comply with this chapter or rules adopted under this chapter applicable to any business authorized or conducted under this chapter.

d. Negligently make a false statement or an omission of material fact in connection with any information or reports filed with a governmental agency of this state or the nationwide multistate licensing system and registry or in connection with any

- 1 investigation conducted by the commissioner or another governmental agency or  
2 this state.
- 3 e. Share with an employer a portion of any charges, voluntary tips, gratuities, or  
4 other donations that were received from or charged to a consumer for earned  
5 wage access services.
- 6 f. Require a consumer's credit report or a credit score provided or issued by a  
7 consumer reporting agency to determine a consumer's eligibility for earned wage  
8 access services.
- 9 g. Accept payment of outstanding proceeds, charges, voluntary tips, gratuities, or  
10 other donations from a consumer by means of a credit card or charge card.
- 11 h. Charge a consumer a late charge, deferral charge, interest, or any other penalty  
12 or charge for failure to pay outstanding proceeds, charges, voluntary tips,  
13 gratuities, or other donations.
- 14 i. Report to a consumer reporting agency or debt collector any information about  
15 the consumer regarding the inability of the provider to be repaid outstanding  
16 proceeds, charges, voluntary tips, gratuities, or other donations.
- 17 j. Compel or attempt to compel payment by a consumer of outstanding proceeds,  
18 charges, voluntary tips, gratuities, or other donations to the provider through:  
19 (1) A suit against the consumer in a court of competent jurisdiction.  
20 (2) Use of a third party to pursue collection from the consumer on the provider's  
21 behalf.  
22 (3) Sale of outstanding proceeds, charges, voluntary tips, gratuities, or other  
23 donations to a third-party collector or debt buyer for collection from a  
24 consumer.
- 25 k. Mislead or deceive a consumer about the voluntary nature of the tips, gratuities,  
26 or donations or represent the amounts will benefit any specific individuals or  
27 group of individuals.
- 28 2. The limitations in subdivision j of subsection 1 do not preclude the use by a provider of  
29 any of the methods specified in that subdivision to compel payment of outstanding  
30 proceeds or charges incurred by a consumer through fraudulent or other unlawful  
31 means. The limitations in subdivision j of subsection 1 do not preclude a provider from

1 pursuing an employer for breach of the employer's contractual obligations to the  
2 provider.

3 **Reporting requirements.**

4 A licensee shall file with the commissioner, at a time and in the manner specified by the  
5 commissioner, a report containing data requested by the commissioner. The report must be filed  
6 under oath.

7 **Regulations and rulings.**

8 The commissioner ~~is authorized and empowered to make~~ may adopt rules and regulations,  
9 conduct hearings, and make specific rulings, orders, demands, and findings as may be  
10 necessary for the proper conduct of the business authorized and licensed under and for the  
11 enforcement of this chapter.

12 **Operation of existing providers.**

13 1. A provider operating in this state on January 1, 2025, may continue to act as a  
14 provider if the person:

15 a. Applies for licensure in accordance with this section within six months of the date  
16 the commissioner makes an application available to potential applicants; and  
17 b. Complies with the requirements of this chapter.

18 2. A person operating in this state on January 1, 2025, may continue to act as a provider  
19 until the commissioner grants or denies the person's application for licensure under  
20 this section.

**REPORT OF STANDING COMMITTEE  
HB 1393**

**Industry, Business and Labor Committee (Rep. Warrey, Chairman)** recommends **AMENDMENTS** ([25.1073.01001](#)) and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1393 was placed on the Sixth order on the calendar.

25.1073.01000

Sixty-ninth  
Legislative Assembly  
of North Dakota

# HOUSE BILL NO. 1393

Introduced by

Representative Dockter

Senator Klein

- 1 A BILL for an Act to create and enact a new chapter to title 13 of the North Dakota Century
- 2 Code, relating to ~~payday lending organizations~~ earned wage access providers; and to provide a penalty.

## 3 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

- 4 **SECTION 1.** A new chapter to title 13 of the North Dakota Century Code is created and
- 5 enacted as follows:

### 6 Administration.

- 7 The department of financial institutions shall administer and enforce this chapter. The department has the power to promulgate rules and regulations having the force and effect of law, reasonably necessary to carry out the provisions of this chapter, in accordance with chapter 28-32

### 8 Definitions.

- 9 As used in this chapter:

- 10 1. "Business entity" means a limited liability company, partnership, or corporation
- 11 authorized to engage in business under the laws of this state. The term does not
- 12 include a single-member limited liability company.
- 13 2. "Commissioner" means the commissioner of financial institutions.
- 14 3. "Consumer" means an individual who is a resident of this state and who engages in or
- 15 intends to engage in an earned income access transaction.
- 16 4. "Control" means:
- 17 a. In the case of a business entity:
- 18 (1) A direct or indirect ownership;
- 19 (2) The right to control twenty-five percent or more of the voting shares of the
- 20 business entity; or
- 21 (3) The ability of an individual to elect a majority of the directors or otherwise
- 22 affect a change in policy of the business entity.

- 1 a. Act of collecting or attempting to collect debts owed or due or asserted to be
- 2 owed or due another; and
- 3 b. Solicitation of debts for the purpose of collection and accepting assignment of
- 4 debts for the purpose of collection.
- 5 6. "Earned but unpaid income" means wages or compensation that have been earned or
- 6 have accrued to the benefit of a consumer but have not been paid by an obligor to that
- 7 consumer for labor or services performed for or on behalf of an obligor.
- 8 7. "Earned income access rate cap" means the limit on the amount that may be charged
- 9 to or received from a consumer, over which the consumer has no option, for an earned
- 10 income access transaction established by the department.
- 11 8. "Earned income access transaction" means the payment of earned but unpaid income
- 12 to a consumer at a time other than the consumer's regular payday or other regularly
- 13 scheduled time on which the obligor pays to the consumer wages or compensation
- 14 earned or that have accrued to the benefit of consumer income.
- 15 9. "Earned income access provider" or "provider" means a person that:
- 16 a. Provides, or offers to provide, on behalf of an obligor earned income access
- 17 transactions to consumers earning wages or compensation from the obligor; or
- 18 b. Offers earned income access transactions to, or enters earned income
- 19 transactions with, consumers.
- 20 10. "Exempt organization" means:
- 21 a. Any banking organization, foreign banking corporation licensed by the
- 22 department to transact business in this state, national bank, federal savings
- 23 bank, federal savings and loan association, federal credit union, or any bank,
- 24 trust company, savings bank, savings and loan association, or credit union
- 25 organized under the laws of this state, another state, or the United States.
- 26 b. A service provider, including a payroll service provider, that verifies available
- 27 earnings, but is not contractually obligated to pay earned but unpaid income as
- 28 part of an earned income access transaction; or
- 29 c. An obligor that offers a portion of salary, wages, or compensation directly to its
- 30 employees or independent contractors before the normally scheduled pay date.

8. a. "Fee" means the following:

- (1) A fee imposed by a provider for delivery or expedited delivery of proceeds to a consumer.
- (2) A subscription or membership fee imposed by a provider for a bona fide group of services that include earned wage access services.

b. "Fee" does not include a voluntary tip, gratuity, or other donation.

9. "Outstanding proceeds" means proceeds remitted to a consumer by a provider that have not yet been repaid to the provider.

10. "Proceeds" means a payment to a consumer by a provider that is based on earned but unpaid income.

11. a. "Provider" or "earned wage access services provider" means a person that is in the business of providing earned wage access services to consumers.

b. "Provider" or "earned wage access services provider" does not include:

- (1) A service provider, such as a payroll service provider, whose role may include verifying the available earnings but is not contractually obligated to fund any proceeds delivered as part of an earned wage access service; or
- (2) An employer that offers a portion of salary, wages, or compensation directly to its employees or independent contractors before the normally scheduled pay date.

16

17 **License.**

- 18 1. An individual or business entity, except for an exempt organization as defined in this
- 19 chapter, may not engage in the business of providing or offering earned income
- 20 access transactions to consumers, or enter an earned income access transaction with
- 21 a consumer, without first obtaining a license under this chapter. An individual or
- 22 business entity is considered to be engaging in the business of earned wage access
- 23 service if the consumer is located in this state.
- 24 2. An application for a license under this chapter must be in writing, under oath, and in
- 25 the form prescribed by the commissioner.
- 26 3. Each applicant shall maintain a tangible net worth of at least twenty-five thousand
- 27 dollars or other amount as the commissioner may determine necessary to protect the
- 28 public interests.
- 29 4. The financial responsibility, financial condition, business experience, character, and
- 30 general fitness of the applicant must reasonably warrant the belief that the applicant's
- 31 business will be conducted lawfully and fairly. In determining whether this qualification
- 32 is met and for the purpose of investigating compliance with this chapter, the

- 1        multistate licensing system information concerning the applicant's identity, which may  
2        include:
- 3        a.   Fingerprints for submission to the federal bureau of investigation and any  
4        governmental agency or entity authorized to receive information for a state,  
5        national, and international criminal history background check;
- 6        b.   Personal history and experience in a form prescribed by the nationwide multistate  
7        licensing system, including the submission of authorization for the nationwide  
8        multistate licensing system and the commissioner to obtain:
- 9            (1)   An independent credit report obtained from a consumer reporting agency  
10          described in the Fair Credit Reporting Act [15 U.S.C. 1681a]; and
- 11          (2)   Information related to any administrative, civil, or criminal findings by any  
12          governmental jurisdiction; and
- 13        c.   Any other documents, information, or evidence the commissioner deems  
14        necessary.
- 15        10.   The commissioner may use the nationwide multistate licensing system and registry as  
16        a channeling agent for requesting information from and distributing information to the  
17        department of justice or any governmental agency or to any other source.
- 18        11.   Upon receipt of a completed application, the commissioner shall determine whether  
19        the qualifications prescribed under this chapter are satisfied. The commissioner may  
20        refuse to issue the license if the commissioner finds the financial responsibility,  
21        experience, character, or general fitness of the applicant or any person associated  
22        with the applicant are insufficient to warrant the belief the business will be conducted  
23        honestly, fairly, and efficiently. If the commissioner determines the qualifications are  
24        satisfied and approves the documents, the commissioner shall issue a license to  
25        engage in the earned wage access service business.
- 26        **Denial of license - Hearing - Notification of change in status.**
- 27        1.   If the commissioner determines an applicant is not qualified to receive a license, the  
28        commissioner shall notify the applicant, in writing, stating the application is denied and  
29        stating the basis for denial. If the commissioner denies an application, the applicant  
30        may request a hearing in accordance with chapter 28-32 before the commissioner on  
31        the question of whether the license should be granted. The hearing must be scheduled

Sixty-ninth

Legislative Assembly

compensation, or other income or the purchase, sale or assignment of, or an order for earned but unpaid income;

b. A loan or other form of credit or debt, nor shall the provider be considered a creditor, debt collector, or lender with respect thereto; or

c. Money transmission, nor shall the provider be considered a money transmitter with respect to the provision of any earned wage access services.

3. Notwithstanding any other provision of law, fees, voluntary tips, gratuities, or other donations paid in accordance with this chapter to a provider shall not be considered interest or finance charges.

4. If there is a conflict between the provisions of this chapter and any other provision of law, the provisions of this chapter shall prevail.

23

24       **Records.**

25       1. Each licensee shall keep and use in the licensee's business any books, accounts, and  
26       records the commissioner may require. A licensee shall preserve required books,  
27       accounts, and records for at least six years. The records of a licensee may be  
28       maintained electronically if the records can be reproduced upon request by the  
29       commissioner and within the time required under this section. When a licensee ceases  
30       operations for any reason, the licensee shall inform the commissioner of the location  
31       of the records. In addition, the licensee shall provide the name of the individual  
32       responsible for maintenance of the records. The licensee shall notify the commissioner

- 1            h. Failed to maintain the required bond;
- 2            i. Failed to maintain any required registration with the secretary of state; or
- 3            j. No longer meets the requirements for licensure under this chapter.
- 4        2. An order issued by the commissioner under this section must contain a notice of
- 5            opportunity for hearing under chapter 28-32.
- 6        3. If a hearing is not requested within twenty business days of the date of service upon
- 7            the licensee, the order becomes final.

8        **Temporary suspension - Appeal.**

- 9        1. If the commissioner determines probable cause exists for the suspension or
- 10            revocation of a license, that enforcement of this chapter requires immediate
- 11            suspension of the license pending investigation, or that probable cause exists to
- 12            indicate the continued operation of a licensee's business may create a significant risk
- 13            of serious and ongoing harm to the public while a disciplinary action is pending, the
- 14            commissioner may, upon written notice to the licensee, issue an ex parte order
- 15            suspending the license.
- 16        2. An ex parte order remains in effect until a final order is issued after a full hearing and
- 17            appeal is conducted in accordance with chapter 28-32 or until the suspension is
- 18            otherwise terminated by the commissioner. If a hearing is not requested within twenty
- 19            business days of the date of service of the order upon the licensee, the order becomes
- 20            final.
- 21        3. The commissioner shall conduct a full hearing on the merits of the evidence
- 22            warranting immediate suspension to determine if disciplinary action must be taken
- 23            against the licensee.
- 24        4. The licensee may appeal the ex parte temporary suspension order before a full
- 25            hearing is conducted. For purposes of appeal, the district court shall decide whether
- 26            the commissioner acted reasonably or arbitrarily. The court shall give priority to the
- 27            appeal for prompt disposition.

- 1        5. When a current or former officer or employee or other person participating in the  
2        conduct of the affairs of a licensee is charged with a felony in state or federal court  
3        which involves dishonesty, fraud, or breach of trust, the commissioner may  
4        immediately suspend the individual from office or prohibit the individual from further  
5        participation in the earned wage access service provider affairs, or both. The order is  
6        effective immediately upon service of the order on the licensee and the individual  
7        charged and remains in effect until the criminal charge is finally disposed of or until  
8        modified by the commissioner. If a judgment of conviction, federal pretrial diversion, or  
9        similar state order or judgment is entered, the commissioner may order the  
10       suspension or prohibition be made permanent. A finding of not guilty or other  
11       disposition of the charge does not preclude the commissioner from pursuing  
12       administrative or civil remedies.
- 13       6. The commissioner may deny an application to renew a license if the licensee no  
14       longer meets the criteria for licensure or otherwise fails to comply with this chapter.

15       **Violations - Cease and desist orders - Penalties.**

16       Except as otherwise provided in this chapter, any person that willfully provides earned wage  
17       access services without a license is guilty of a class C felony and any person that violates any  
18       other provision of this chapter or any rule adopted under this chapter is guilty of an infraction. If  
19       the commissioner finds, whether without a hearing or after a hearing if a hearing is requested  
20       within twenty days of notice of an action by the commissioner, a person violated this chapter or  
21       any rule adopted under chapter, the commissioner may:

- 22       1. Order the person to cease and desist violating this chapter or the rule;  
23       2. Require the refund of any fees collected by the person in violation of this chapter; or  
24       3. Impose a civil penalty not to exceed one hundred thousand dollars per violation upon  
25       a person that willfully violates a law, rule, written agreement, or order under this  
26       chapter. An interested party may appeal the assessment of a civil money penalty  
27       under chapter 28-32 by filing a written notice of appeal within twenty days after service  
28       of the assessment of civil money penalties. A civil money penalty collected under this  
29       section must be paid to the state treasurer and deposited in the financial institutions  
30       regulatory fund.

1           d. The commissioner shall take all necessary steps, under any applicable law or  
2           rule, to protect the disclosure of information or material subject to a privilege or  
3           confidentiality under this section. Records subject to a privilege or confidentiality  
4           may be required to be disclosed only pursuant to an order of the court. The court  
5           ordering the disclosure shall issue a protective order to protect the confidential  
6           nature of the records.

7           **Documentation of earned wage access transaction and notification to consumer.**

8           1. Each earned wage access transaction must be documented by a written or electronic  
9           agreement signed or similarly authenticated by the consumer. The original agreement  
10          must contain:

11          a. The name of the licensee.

12          b. The transaction date.

13          c. The amount of the obligation.

14          d. A statement of the total amount of fees charged, expressed as a dollar amount.

15          e. The name and signature of the individual who signs the agreement on behalf of  
16          the licensee.

17          f. The transaction number assigned by the database.

18          g. A statement that indicates the maximum term of the transaction may not exceed  
19          fourteen calendar days.

20          2. The earned wage access service agreement must include in no less than ten-point  
21          font, the following notification: State law prohibits this business from allowing  
22          consumers to have earned wage access totaling more than one thousand dollars  
23          outstanding at any time.

24          3. Before distributing funds as part of an earned wage access transaction, a licensee  
25          shall provide to the consumer a clear and conspicuous notice which indicates:

26          a. An earned wage access service transaction is not intended to meet long-term  
27          financial needs.

28          b. The customer should use an earned wage access service transaction only to  
29          meet short-term cash needs.

30          c. The schedule of fees charged for each earned wage access transaction.

31          d. Any additional information required under federal law.

- 1        9. An earned wage access provider may rely on the information contained in the  
2        database as accurate and is not subject to any administrative penalty or civil liability  
3        due to relying on inaccurate information contained in the database.
- 4        10. A consumer agreeing to an electronic earned wage access service transaction may  
5        repay the obligation at any time before the agreed-upon date. A consumer may  
6        rescind, at no cost, any transaction by the close of the business day following the day  
7        on which the consumer receives payment from the licensee. If a consumer agreeing to  
8        an electronic earned wage access service transaction rescinds the transaction, the  
9        licensee must facilitate the repayment of the funds through the same electronic means  
10       the licensee used to deliver the funds to the customer.
- 11       11. If an electronic debit is returned to the licensee from a payer financial institution due to  
12       insufficient funds, closed account, or a stop payment order, the licensee may seek civil  
13       remedies available to collect the obligation.
- 14       12. A consumer who has authority to authorize an electronic debit and enters an earned  
15       wage access service agreement is not subject to a criminal penalty relating to the  
16       electronic debit or the earned wage access service agreement unless the consumer's  
17       account was closed on the original date of the transaction. A licensee may not pursue  
18       or threaten to pursue criminal penalties against a consumer for criminal penalties  
19       prohibited by this subsection.
- 20       13. A licensee may not engage in unfair or deceptive acts, practices, or advertising in the  
21       conduct of an earned wage access service business.
- 22       14. The amount paid to the consumer by the licensee in an earned wage access service  
23       transaction must be paid in the form of electronic credit to the customer's account.
- 24       15. A licensee may enter a workout agreement with the consumer if the consumer  
25       believes financial hardship prevents the consumer from paying off the earned wage  
26       access service transaction at the end of the original agreement. The workout  
27       agreement must outline the repayment terms in writing and must require weekly,  
28       biweekly, or monthly even installments not to exceed twelve months. An additional  
29       interest or fee may not be charged as part of this workout and the earned wage  
30       access service provider shall continue to report the transaction as an outstanding  
31       earned wage access service transaction on the database administered by the

1 and no proceeds roll over or are structured in any way to create any continuing  
2 obligation to the provider on the part of a consumer;

3 f. The provider offers the consumer at least one reasonable option to obtain  
4 proceeds at no cost to the consumer and clearly explains how to elect a no-cost  
5 option;

6 g. The consumer receives the proceeds no less than three business days after a  
7 consumer's request for no-fee procession, no less than one business day after a  
8 consumer's request for processing subject to a fee, and no less than one  
9 business day before the next regularly scheduled date on which the obligor is  
10 scheduled to pay earned wages or income to the consumer;

11 h. Before a consumer enters the earned income access transaction, the provider  
12 gives the consumer written notice, of all fees associated with the earned income  
13 access transaction and the full potential cost of the transaction, including the cost  
14 expressed as an annual percentage rate;

15 i. If the provider offers consumers the opportunity to pay an additional amount for  
16 an earned income access transaction voluntarily, including a tip or donation:

17 (1) The provider gives notice to the consumer in writing that paying an  
18 additional amount is not required for the consumer to receive the proceeds;  
19 and

20 (2) The provider offers zero dollars among any amounts suggested to the  
21 consumer by, for example, offering amount options from which the  
22 consumer may select or pre-filling an amount in any form used in the  
23 transaction process, or otherwise using a transaction process designed to  
24 require the consumer to take affirmative action to avoid or opt-out of paying  
25 an additional amount;

26 j. The provider does not charge a late fee or prepayment penalty on the earned  
27 income access transaction;

28 k. The provider does not pull a credit report or otherwise assess credit risk of the  
29 consumer prior to, during, or after the earned income access transaction except  
30 that the provider may verify the consumer's source of income as part of  
31 determining the amount of the proceeds;

means of electronic fund transfer, the provider shall do all of the following:

- a. Comply with applicable provisions of the federal Electronic Fund Transfer Act, 15 USC 1693 to 1693r, and regulations adopted thereunder.
- b. Reimburse the consumer for the full amount of any overdraft or non-sufficient funds fees imposed on a consumer by the consumer's depository institution that were caused by the provider attempting to seek payment of any outstanding proceeds, fees, or other payments, in connection with the activities covered by this chapter, including voluntary tips, gratuities, or other donations, on a date before, or in an incorrect amount from, the date or amount disclosed to the consumer. However, the provider is not subject to the requirements in this subdivision with respect to payments of outstanding proceeds or fees incurred by a consumer through fraudulent or other unlawful means.

### **Prohibited acts and practices**

1. It is a violation of this chapter for a person required to be licensed under this chapter to:
  - a. Make or cause to be made any material false statement or representation in any application or other document or statement required to be filed under any provision of this chapter, or to omit to state any material statement or fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading.
  - b. Fail to make disclosures as required by this chapter and any applicable regulations.
  - c. Fail to comply with this chapter or rules adopted under this chapter, including the rules and regulations thereunder, applicable to any business authorized or conducted under this chapter.
  - d. Negligently make any false statement or make any omission of material fact in connection with any information or reports filed with a governmental agency of this state or the nationwide multistate licensing system and registry or in connection with any investigation conducted by the commissioner or another governmental agency or this state.
  - e. Share with an employer a portion of any fees, voluntary tips, gratuities, or other donations that were received from or charged to a consumer for earned wage access services.
  - f. Require a consumer's credit report or a credit score provided or issued by a consumer reporting agency to determine a consumer's eligibility for earned wage access services.
  - g. Accept payment of outstanding proceeds, fees, voluntary tips, gratuities, or other donations from a consumer by means of a credit card or charge card.
  - h. Charge a consumer a late fee, deferral fee, interest, or any other penalty or charge for failure to pay outstanding proceeds, fees, voluntary tips, gratuities, or other donations.
  - i. Report to a consumer reporting agency or debt collector any information about the consumer regarding the inability of the provider to be repaid outstanding proceeds, fees, voluntary tips, gratuities, or other donations.
  - j. Compel or attempt to compel payment by a consumer of outstanding proceeds, fees, voluntary tips, gratuities, or other donations to the provider through any of the following means:
    - (1) A suit against the consumer in a court of competent jurisdiction.
    - (2) Use of a third party to pursue collection from the consumer on the provider's behalf.
    - (3) Sale of outstanding proceeds, fees, voluntary tips, gratuities, or other donations to a third-party collector or debt buyer for collection from a consumer.
  - k. If the provider solicits, charges, or receives tips, gratuities, or other donations from a consumer, mislead or deceive a consumer about the voluntary nature of the tips, gratuities, or donations or represent that they will benefit any specific individuals or group of individuals.
2. The limitations set forth in subdivision 1. j. do not preclude the use by a provider of any of the methods specified in subdivision 1. j. to compel payment of outstanding proceeds or fees incurred by a consumer through fraudulent or other unlawful means, nor do they preclude a provider from pursuing an employer for breach of its contractual obligations to the provider.

14 — ~~Advertising.~~

15 — ~~1. An advertisement for an earned income access transaction service may not be~~

**2025 SENATE INDUSTRY AND BUSINESS**

**HB 1393**

# 2025 SENATE STANDING COMMITTEE MINUTES

## Industry and Business Committee Fort Union Room, State Capitol

HB 1393  
3/11/2025

A bill relating to earned wage access providers; and to provide a penalty.
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9:44 a.m. Chairman Barta opened the hearing.

Members present: Chairman Barta, Vice-Chair Boehm, Senator Klein, Senator Kessel, Senator Enget

### Discussion Topics:

- Payday loans
- Statewide centralized database, cost, and benefits
- Mobile applications/online providers and brick and mortar businesses
- Lack of regulation, consumer protection, and transparency
- Financial over extension and jeopardy
- Compliance with state law
- Borrower status tracking
- Identification of unlicensed activity
- Fee implication and funding
- Timeline of loan access
- Number of companies and other states with legislation
- Pay period and dollar amount limits
- Employer integration and direct employers
- Catalis and DailyPay
- Benefits of earned wage access and process

9:44 a.m. Representative Dockter, District 7, testified in favor and introduced the bill.

9:50 a.m. Bill Kalanek, ND Pawn Brokers Association and Catalis, testified in favor and submitted testimony #40339.

10:04 a.m. John R. and Barnes, Vice President, Government Relations, Catalis, testified in favor and submitted testimony #40443.

10:16 a.m. Alex Kelsch, DailyPay LL, testified in favor and submitted testimony #40561.

10:26 a.m. Ryan Naples, Director of Public Policy, DailyPay Inc, testified in favor and submitted testimony #40444 and #40445.

10:34 a.m. Ashley Urisman, Director, State Government Affairs, American Fintech Council (AFC), testified in favor and submitted testimony #40039.

10:36 a.m. Sam Sadle, Government Relations, Earnin, testified in favor and submitted testimony #39380.

10:40 a.m. Corey Krebs, Assistant Commissioner, ND Financial Institutions, testified in neutral and submitted testimony #39909.

10:49 a.m. Chairman Barta closed the hearing.

*Audrey Oswald, Committee Clerk*



**North Dakota Senate Committee on Industry and Business**

**HB 1393**

**March 11, 2025**

**Testimony from Sam Sadle on behalf of EarnIn**

***[2 minutes]***

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Good morning Chair Barta, Vice-Chair Boehm, and Members of the Committee,

Thank you for the opportunity to testify today. My name is Sam Sadle from EarnIn's Government Relations team, and I am here to express my strong support for HB 1393, which regulates Earned Wage Access, also known as EWA. In particular, I want to thank you for the opportunity to speak to you as someone whose family directly benefits from EarnIn's EWA product. My family owns and operates three restaurants and a catering company whose employees utilize EarnIn's direct-to-consumer Earned Wage Access product. Since 2013, EarnIn has enabled our employees and countless others to access their pay whenever they need it, rather than being tied to our company's pay cycle. Our employees are only an example of the over 7,000 North Dakotans who have used EarnIn.

Of course, we're not the only company that employs folks who utilize EarnIn. In fact, some of North Dakota's largest employers including Sanford Health, Walmart, the U.S. Military, Trinity Health, Marvin Windows and Doors, and many others – have employees who utilize EarnIn. For these workers—and thousands like them—EarnIn provides flexible access to their earned wages, giving them peace of mind when managing financial obligations.

However, the impact of EWA services is best seen through the real-life experiences of the workers who rely on it. Here are just a few stories from folks who have benefited from EarnIn's EWA service.

- A saleswoman shared that due to her fluctuating income, she needs a reliable way to access her earnings to help her stay on top of essential bills and avoid high-interest loans and credit card debt.
- A medical assistant relies on EarnIn when her paycheck is delayed, ensuring she can pay rent and cover childcare expenses on time.



- Then, a peer support specialist working with the rural unhoused community told us that EarnIn gives her the financial freedom to help when it's desperately needed.

While each situation is unique, a common theme emerges: workers across North Dakota use EarnIn to bridge financial gaps, avoid high-cost options, and gain a sense of financial security.

What sets EWA apart is its strong consumer protections and choice—no credit checks, interest, late fees, or recourse, and always a free option.

Six states—Nevada, Missouri, Kansas, Wisconsin, Utah, and South Carolina—have passed legislation so far, and last year, the Council of State Governments (CSG) adopted our model bill. By passing 1393, North Dakota can build on this momentum and establish a unique regulatory framework for this vital financial tool.

Right here in North Dakota, the EWA industry has worked extensively with the House and other stakeholders, including DFI, to come up with the language before you today that balances regulation with businesses functionality and will allow users in North Dakota to continue utilizing this important service.

Supporting 1393 is supporting workers having safe and reliable access to their earnings, ensuring our North Dakotans have their needs met and can put food on tables across the state.

Chair Barta and members of the Committee, thank you for your time and thoughtful consideration. I welcome any questions.



## MEMORANDUM

**DATE:** March 11, 2025

**TO:** Senate Industry and Business Committee

**FROM:** Corey Krebs, Assistant Commissioner

**SUBJECT:** Neutral Testimony on House Bill No. 1393

Chairman Barta and members of the Senate Industry and Business Committee, thank you for the opportunity to testify on House Bill No. 1393.

Mr. Chairman and members of the Committee, House Bill 1393 creates a new section of title 13 of the North Dakota Century Code to regulate earned wage access providers. The decision to regulate an industry and the specific approach to regulate the industry is a public policy decision, thus we are not advocating for or against this bill. I am here today to provide you with information about the earned wage access industry, how this regulation looks in different states, the approach this bill is taking, and to answer any questions you may have.

Earned wage access is a financing product that allows people to borrow money against wages owed to them by their employer. There is a wide range of business models within this space, ranging from an employer paid benefit to their employees to products offered by independent third parties which are comparable to payday lending products. Effective annual percentage rates on these products typically range from as high as 320% or as low as 0%.

These companies typically will require a borrower to download an app. The app will link to the user's bank account and possibly the employer's payroll system. The employee makes the request for the funds and agrees to the fees associated with the financing product. Funds are then provided to the customer, typically less than 3 days of the request. On payday, the borrower will be paid the balance of the money owed to them by the employer and the earned wage access company will also be paid. Not every company's process looks exactly like this but follows this general process.

These products can be beneficial to consumers; however, there may be risk as well. The benefit is quick financing, and with regards to the employer provided or low fee products, a cheap source of funds. The risk is that not all products are low cost, and frequent use of the higher cost products could put the consumer in a debt trap, a constant reliance upon a

financing product which is expensive in the long term. This is a similar risk to the use of payday lending products.

States have taken different approaches to regulating earned wage access products. Some states have defined earned wage access transactions as a consumer loan, which would subject these products to traditional lending regulations such as the interest rate caps. Some states have defined earned wage access as a separate industry with disclosure rules but without other consumer protections such as maximum fees. Some states have established both disclosure requirements and maximum fees.

House bill 1393, as amended, falls into this second category, the bill requires disclosures to the customer, it does not establish maximum fees. Additionally, in part, it mandates that a no cost option be available for consumers, creates a reporting requirement, and outlines a number of prohibited practices. This bill as amended looks similar to the law governing earned wage access in Kansas and a few other states.

A recurring point of conversation during the committee work in the House was the need to better understand the industry. These products are relatively new, and more than one business model exists which means the risks are not the same with every product offered. With the reporting requirement within this bill, the department over time should get an

understanding of the effectiveness of the consumer protections within this bill, and we can make recommendations for adjustments in the future if necessary.

We have a fiscal note on this bill. Based upon the experience of states which have licensed earned wage access companies, we estimate 16 companies may apply for licensure. Licensing and examination fees are estimated to generate \$43,000 in revenue over the biennium. Estimated expenses associated with regulation of the industry for the biennium is \$14,500.

Mr. Chairman, thank you for the opportunity to provide this testimony. I would be happy to answer any questions the Committee may have.



## American Fintech Council Testimony

TO: North Dakota Senate Industry & Business Committee

FROM: Ashley Urisman, Director- State Government Affairs, American Fintech Council (AFC)

DATE: March 11, 2025

SUBJECT: House Bill 1393

### ***Position: Support.***

#### ***Testimony:***

Thank you Chair Barta, Vice-Chair Boehm, and members of the Senate Industry & Business Committee. My name is Ashley Urisman, and I am the Director of State Government Affairs for the American Fintech Council (AFC). I am testifying today in support of the current version of House Bill 1393 (HB 1393).

AFC is the premier trade association representing the largest financial technology (Fintech) companies and innovative banks, including the biggest providers and largest number of Earned Wage Access (EWA) companies. Our mission is to promote a transparent, inclusive, and customer-centric financial system by supporting responsible innovation in financial services and encouraging sound public policy.

EWA is an innovative financial tool that empowers workers to access their wages in a way that best fits their lifestyle, freeing them from arbitrary payroll cycles. Users can opt to access EWA through their employers, as stand-alone products, or as part of a subscription. EWA is not a loan and should not be regulated as such. As a distinct financial product, EWA must be governed by distinct regulations. This bill shapes a regulatory framework for responsible companies to be licensed in North Dakota to safely offer EWA to workers in the state.

To ensure that EWA providers safely and effectively serve consumers, AFC has established clear standards on what constitutes a responsible EWA product. Our standards require

- A voluntary no-cost option be made available for all users;
- Fees are disclosed or represented in a clear and transparent manner;
- No underwriting or credit checks
- Ability for users to cancel the service at any time, meaning it does not have to be repaid.

The provisions of HB 1393 reflect these standards. If passed, HB 1393 will provide a critical financial choice for North Dakota workers and allow responsible EWA services to flourish in this state. This bill will help workers access their pay by giving providers a clear and functional regulatory path that recognizes the nuances of the service.

In closing, I applaud the North Dakota legislature for taking up this issue in a timely manner and seeking a pragmatic solution to regulation. I am happy to answer any questions you may have.

Testimony on HB 1393  
Bill Kalanek  
Senate Industry & Business Committee

Good morning Chairman Barta and members of the Senate Industry & Business Committee. I'm here today on behalf of the ND Pawnbrokers Association and Catalis LLC to support HB 1393 which establishes a regulatory framework for what has become known as Earned Wage Access. Earned Wage Access is an online financial tool that allows individuals to access their earned but unpaid wages prior to their regular payday. You may view it similarly to a payday loan. The services offer financial flexibility for many workers but the lack of clear regulation has created inconsistencies in operational transparency and a lack of proper consumer protections.

A study from the California Department of Financial Protection and Innovation (DFPI) found that borrowers using EWA services took out an average of nine advances per quarter, totaling 36 advances per year. In some cases, borrowers took as many as 25 advances per quarter, illustrating heavy reliance on these products. Furthermore, 29% of borrowers admitted to taking out multiple advances from different providers simultaneously. With no coordination across platforms, this unregulated behavior increases the risk of financial overextension.

Twenty-five years ago the ND Pawnbrokers Association sought to regulate themselves as the traditional payday loan industry expanded. Those businesses are referred to as deferred presentment service providers in the century code. Those private businesses ceased operations until adequate regulation and tracking of loans was established before resuming business at a significant loss to their own bottom lines. The regulation, established through the Department of Financial Institutions has since served to protect both the businesses and those who utilize "Deferred Presentment" as a means of financial help.

The pawnbrokers I represent are asking these online providers be subject to the same regulation the traditional payday loan industry is subject to in this state. I ask that you consider adopting an amendment that levels the playing field for local business owners who live and work in the state by making direct to consumer EWA loans subject to the same reporting requirements by adding an online database requirement to the bill. This provision would not only prevent an individual from taking out multiple advances and risking financial jeopardy but would serve to protect the industry from itself. Make no mistake the online Payday Loan industry did not bring this legislation forward voluntarily like my client did so many years ago.

The online payday loan industry referred to in the bill as "Earned Wage Access" service providers are nothing more than payday loans by another name yet they have gone unregulated for over 10 years and have made hundreds of thousands of loans in the state. One provider indicated they estimate a quarter of a million EWA advances were made to North Dakotans last year alone.

HB 1393 will:

- Help prevent consumers from becoming overextended on Earned Wage Access advances.
- Require Direct to Consumer Earned Wage Access providers to submit information on every transaction to a statewide database, similar to the database that has been in North Dakota for payday loans for over 20 years.

- Create a database that uses transaction information to ensure compliance with state law. To meet legal requirements, the database must track a borrower's status at a specific point in time, allowing providers to determine whether they are eligible to offer another Earned Wage Access advance.
- Establish licensed providers who have access to the database making unlicensed activity easier to identify and enforce
- Empower regulators to protect consumers from overextending themselves.
- Be a Self-funding program. Provides for the use of fees, on each database transaction, to pay for the database system.

This legislation will track direct to consumer EWA transactions in real time, preventing borrowers from taking out more than the allowed number of advances, even if they use multiple platforms. Additionally, it would allow regulators to monitor consumer protection and promote a safe and healthy marketplace.

Additionally, this legislation will also provide this legislative body, as well as the Department of Financial Institutions with valuable data on borrower behavior and industry practices, enabling them to make more informed decisions around consumer protections. By addressing the issue of overextension and reducing the need for frequent borrowing, states can help ensure that EWA remains a tool for financial relief, not a source of ongoing debt.

I encourage the committee to consider amending as stated by the sponsor, and with that I'd encourage you to give an amended HB 1393 a Do Pass recommendation.



**North Dakota Senate  
Senate Industry and Business Committee  
Re: HB 1393**

Chairman Barta and members of the Senate Industry and Business Committee, thank you for the opportunity to testify on House Bill No. 1393.

My name is John Barnes, and I am the Vice President of Government Relations for Catalis. For nearly 25 years, Catalis (formerly known as Veritec Solutions) has partnered with state financial regulators to implement real-time compliance solutions in the non-banked consumer market, specifically small-dollar lending. Currently, we provide statewide database services in 14 states, including North Dakota since 2007, ensuring consumer protections are properly enforced while allowing responsible licensees to operate within clear and manageable regulatory guidelines.

Our nearly 25 years of experience in small-dollar lending regulation has demonstrated that real-time transaction monitoring is an effective and efficient tool for enforcing state law. In states that require lenders to use this type of centralized compliance system, every transaction must be checked against the database to confirm that a borrower and the transaction are in compliance with state law and regulations around eligibility requirements (e.g., restrictions on loan amounts, frequency of loans, APR limits, waiting periods between loans, etc.) before any consumer can be advanced funds.

There are two different types of EWA providers: direct-to-consumer and employer-integrated. Direct-to-consumer EWA providers operate independently, offering advances directly to workers without employer involvement. In contrast, employer-integrated providers work through an employer partnership, allowing them to access payroll data and ensure advances do not exceed employee's earned wages less any taxes or payroll deductions.

**How The Database Got Started**

In Florida, the payday lending industry had been operating since the 1980s and in 2001, the Florida Legislature was faced with mounting calls to regulate short-term payday loans. At the time, Florida consumers were caught in a dangerous situation. While consumer lending on a national scale had general regulatory oversight from the Federal Trade Commission, gaps in the regulation of these entities at the state level made it possible for consumers to take out multiple short-term loans from various lenders at the same time, with no oversight on how much was being lent.

Many consumers found themselves overleveraged across different lenders, all with the same due date. States like Florida did not have specific statutes dealing with short term lending. The Florida Legislature passed Senate Bill 561 in 2001 to establish a unique statutory code to regulate short-term, high-cost consumer lending by limiting consumers to a single outstanding loan statewide. Florida needed a complex, real-time database management solution.



Catalis (Veritec at the time) stepped in to provide the State of Florida with the Deferred Presentment Database and Program Solution – a real-time database that currently connects to more than 1,500 stores and licensees in the State of Florida and ensures that licensees operating under this chapter know that any loan they authorized will be in compliance with State law. This same system has been adopted in over a dozen states, including here in North Dakota, since 2007.

### **The Overextension Issue**

Hearing from legislators, regulators and consumer advocates around the country, it sounds like they have many of the same consumer protection concerns that led states like Florida, Kentucky, Indiana, Oklahoma, South Carolina and others to adopt real-time databases around the country, are now emerging in the Earned Wage Access space.

Like the providers we help regulate every day, EWA providers operate independently. Unlike the lenders we regulate, EWA providers have no way of knowing how much a worker has already borrowed. In the states we operate in, all providers have access to the same information through a centralized database, which gives them the ability to know if an advance will be out of compliance with state regulation or state law.

However, without real-time tracking, a borrower could make multiple EWA advances from different providers in the same pay period, overextending themselves and potentially falling into a cycle of debt—an unintentional consequence of an underregulated EWA market.

Data from the California Department of Financial Protection and Innovation (DFPI) and the Center for Responsible Lending have confirmed these concerns. Some states are now evaluating ways to prevent overextension, with states like Florida introducing legislation that has a centralized database specifically for direct-to-consumer EWA advances, which will allow consumers to be protected from overextension while ensuring access to EWA as a responsible financial tool.

Unlike employer-integrated providers, which have an added layer of oversight from the employers they work with, direct-to-consumer providers operate independently, meaning there is no external check on how much a borrower has already taken in a given pay period. Without a database, these providers lack the visibility needed to ensure that consumers are not taking on more advances than they can reasonably repay. Regulating direct-to-consumer EWA providers in a real-time database would close this oversight gap and help prevent financial harm to consumers.

### **How the Database Works**

For EWA, a database would work very similarly to how it does today in 14 states where it enforces laws governing small-dollar lending products. The database functions in real-time, ensuring compliance at the point of issuance and preventing any transaction from being processed that would be out of compliance with state law or regulation. It does this by:

- Licensees connecting to the system through a simple API, requiring little technical investment from each provider. Licensees submit only the transaction details required



by state law and there is nothing over burdensome that prevents licensees from processing legal transactions.

- The database verifies borrower eligibility before allowing an additional advance—like a **traffic light system**, if the borrower qualifies, the advance is processed; if they have reached their limit, or if for any other reason the transaction would cause the borrower to be out of compliance with state law or regulation, the transaction is blocked.
- The system does not generate credit scores, report to credit agencies, or collect borrower creditworthiness data. No one has access to the data except the Regulator. While licensees are notified that a consumer can't take out an advance, they don't see the specifics of the previous transactions, ensure consumer privacy is intact.
- Regulators gain real-time insights into lending activity through dashboard tools, supporting enforcement and policy decisions.

### **Regulatory Benefits & Consumer Protections**

For regulators, the database offers several policy enforcement and consumer protection benefits:

- Statewide visibility into transactions, ensuring compliance with state-imposed borrowing limits by automated enforcement through real-time compliance.
- Prevents provider shopping, where borrowers attempt to take multiple advances across different platforms to circumvent regulations.
- Reduces the burden of manual audits, allowing for more efficient investigations.
- Allows for clear transparency and easy access of data for all reporting requirements.

### **Operational & Enforcement Efficiencies**

For state regulators and policymakers, a database enables data-driven decision-making while improving regulatory efficiency:

- Comprehensive reporting tools allow regulators to track borrowing trends and adjust policies accordingly.
- Digital records reduce the need for extensive on-site examinations, streamlining enforcement.
- Supports fraud detection by identifying suspicious lending patterns in real time.
- Requires minimal integration costs for providers through web-based or API connections.

### **Funding & Implementation**

- Self-sustaining model – No state funds required; a small transaction-based fee covers costs. This cost is determined by the State.



- Efficient data management – The system automates reporting, reducing administrative overhead for both the industry and regulators.
- Minimal compliance burden – Providers interface via an automated system, requiring little technical investment from each provider.

### **Conclusion**

As North Dakota evaluates regulatory approaches, we welcome the opportunity to work with the members of this committee and other stakeholders to explore how best to balance consumer protection with market innovation.

North Dakota has multiple options for Earned Wage Access oversight, and a real-time database is one tool that has proven effective in preventing borrower overextension while reducing compliance burdens on regulators and businesses. North Dakota has already successfully implemented a similar database for payday loans, ensuring that short-term financial products remain available while maintaining strong consumer protections.

Thank you for your time and consideration. I have included answers to some questions that may arise below, and I am happy to answer any additional questions or provide additional details about how real-time compliance solutions have supported financial regulation across multiple states.

John Barnes

Vice President, Government Relations  
Catalis



SEPTEMBER 2021

# EARNED WAGE ACCESS USE AND OUTCOMES

FINDINGS FROM A SURVEY OF  
DAILYPAY CUSTOMERS

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LESLIE PARRISH

## IMPACT REPORT

# TABLE OF CONTENTS

IMPACT POINTS.....	3
INTRODUCTION.....	4
METHODOLOGY .....	4
THE MARKET.....	5
DAILYPAY'S OFFERING .....	6
A SHIFT IN FINANCIAL COPING STRATEGIES .....	7
SUBSTITUTION AWAY FROM INFERIOR ALTERNATIVES	9
PERCEIVED CHANGES TO FINANCIAL CONDITION.....	13
PERCEPTIONS OF FREQUENT AND INTENSE DAILYPAY USERS.....	14
IMPACT OF DAILYPAY ON PRIOR PAYDAY LOAN BORROWERS AND OVERDRAFTERS.....	16
CONCLUSION.....	20
APPENDIX: SURVEY RESPONDENT PROFILE .....	21
RELATED AITE-NOVARICA GROUP RESEARCH .....	24
ABOUT AITE-NOVARICA GROUP .....	25
CONTACT .....	25
AUTHOR INFORMATION .....	25

## LIST OF FIGURES

FIGURE 1: REASONS FOR DAILYPAY USE.....	7
FIGURE 2: STRATEGIES BEFORE USING DAILYPAY .....	8
FIGURE 3: PREVIOUS FREQUENCY OF BILL AND LOAN PAYMENT DIFFICULTY.....	9
FIGURE 4: PREVIOUS FREQUENCY OF REQUESTS FOR FRIENDS OR FAMILY HELP .....	10
FIGURE 5: PREVIOUS FREQUENCY OF PAYDAY LOAN USE .....	11

IMPACT REPORT

SEPTEMBER 2021

## EARNED WAGE ACCESS USE AND OUTCOMES

Findings From a Survey of  
DailyPay Customers

LESLIE PARRISH

FIGURE 6: PREVIOUS FREQUENCY OF OVERDRAWN BANK ACCOUNT .....	11
FIGURE 7: CHANGES IN USE OF PREVIOUS STRATEGIES AFTER USING DAILYPAY .....	12
FIGURE 8: CHANGES IN FINANCIAL OUTLOOK SINCE USING DAILYPAY .....	13
FIGURE 9: FREQUENCY OF DAILYPAY USE .....	14
FIGURE 10: INTENSITY OF DAILYPAY USE .....	15
FIGURE 11: FINANCIAL OUTCOMES REPORTED BY FREQUENT USERS, RELATIVE TO LESS FREQUENT USERS .....	16
FIGURE 12: FINANCIAL OUTCOMES BY PRIOR PAYDAY LOAN BORROWING FREQUENCY .....	17
FIGURE 13: FINANCIAL OUTCOMES BY PRIOR OVERDRAFT FREQUENCY .....	18
FIGURE 14: FINANCIAL OUTCOMES FOR PRIOR USERS OF PAYDAY LOANS AND OVERDRAFT .....	19
FIGURE 15: DEMOGRAPHIC PROFILE .....	21
FIGURE 16: DAILYPAY USER HOUSEHOLD COMPOSITION .....	22
FIGURE 17: DISTRIBUTION OF DAILYPAY TENURE .....	23
FIGURE 18: TYPES OF FINANCIAL ACCOUNTS AND SERVICES	23

## LIST OF TABLES

TABLE A: THE MARKET .....	5
TABLE B: DAILYPAY EARLY WAGE ACCESS SOLUTION .....	6

## IMPACT POINTS

- This report provides insights on how an earned wage access (EWA) offering from DailyPay is used and the outcomes reported by its users. EWA companies such as DailyPay partner with employers to provide their employees the option to access any portion of their accumulated net wages at any point during the pay period rather than waiting until the scheduled payday.
- The EWA market has grown quickly over the past few years; Aite-Novarica Group estimates that about US\$9.5 billion of wages were accessed in this manner in 2020. EWA companies note that consumers often use this service to solve timing issues between bill due dates and paydays or unexpected expenses that crop up during a pay period. The revenue model for EWAs varies by company, with many charging a flat fee per access to the employee, employer, or a combination thereof.
- Aite-Novarica Group surveyed over 1,000 DailyPay users in May 2021 to better understand the strategies undertaken by respondents before DailyPay, the extent to which DailyPay use impacted the use of those prior strategies, and any changes respondents perceive related to their financial condition.
- Before using DailyPay, most respondents used one or more expensive strategies to deal with financial shortfalls, difficulty paying bills or loan payments, and timing issues between paydays, including payday loans and overdrafts to a bank account. A significant share also asked friends or family for money, which—while potentially free—may come with an emotional burden. Notably, respondents were much more likely to have used payday loans or incurred overdraft fees than the general population.
- Once respondents began using DailyPay, the vast majority were able to curb their use of (arguably) inferior or expensive alternatives. A majority of respondents believe that DailyPay has allowed them to worry about money less, budget and plan better, and reduce debt.

## INTRODUCTION

Many consumers face timing mismatches between the day they are paid and their bill due dates. Others lack even a modest amount of savings that they can quickly tap into if an unexpected expense pops up. When these issues arise, these consumers may turn to costly strategies to make ends meet. Over the last decade, a growing number of companies have started to offer EWAs in partnership with employers to help solve these issues.

This report examines the user experience for customers of a leading EWA provider, DailyPay. After a brief overview of the company's offering, Aite-Novarica Group reports on the strategies consumers used before using this EWA service, their reasons for using DailyPay, and the changes in their financial circumstances that users attribute to this product.

## METHODOLOGY

The insights in this report are informed by an Aite-Novarica Group online survey of 1,114 DailyPay users in May 2021, sponsored by DailyPay. Survey participation was promoted via an email sent by DailyPay to its customers, and those who completed the survey were entered to win one of several US\$100 Amazon gift cards. Survey results have a 95% confidence interval with a 3-point margin of error. As survey respondents are all DailyPay users, the results reflect only this product rather than the entire earned wage access market. Additional details on the demographic profile of survey respondents, which are generally consistent with DailyPay's overall customer base, are outlined in the Appendix.

## THE MARKET

The EWA market has experienced exponential growth in recent years, as a growing number of companies have begun to offer varied versions of this solution. Employers are increasingly interested in offering such an option as they witness the strain financial insecurity can cause their employees and as these solutions become more mainstream. Aite-Novarica Group estimates the EWA industry now provides an estimated US\$9.5 billion annually in wages before employees' scheduled paydays. As this industry matures, a variety of stakeholders have become interested in understanding how consumers are using accesses, the impact of their use on those consumers' behavior and overall financial condition, and what regulatory context is most appropriate for this novel product (Table A).

TABLE A: THE MARKET

MARKET TRENDS	MARKET IMPLICATIONS
Many consumers have trouble budgeting and making ends meet.	A significant share of consumers run out of money before payday, experience timing issues between when their bills come due and when they are paid, or don't have adequate savings to deal with an unexpected expense.
A growing number of technology companies are offering EWAs in partnership with employers.	Most EWA companies were founded over the last decade. They gained momentum in recent years as they convinced employers of how they could help solve for the precarious nature of employees' finances.
EWAs have proven popular among employees as their employers increasingly partner with EWA providers that facilitate access to wages.	In 2020, Aite-Novarica Group estimates that employees accessed US\$9.5 billion in earnings through EWAs. This represents a nearly 200% increase since 2018.
As the number of EWA companies and users has grown, stakeholder groups and regulators alike seek to understand EWA's impact.	EWA is a new type of product; thus, it has been debated whether an existing regulatory framework should apply or a new one should be created. The effect of its use and whether consumers are using it to substitute away from more costly alternatives or layering it on was unclear.

Source: Aite-Novarica Group

## DAILYPAY'S OFFERING

DailyPay is one of several leading companies offering earned wage access through partnerships with employers. Founded in 2015, DailyPay provides up to 100% of net wages earned at any point during a pay period for a fee ranging from US\$1.99 to US\$2.00 per access; the fee depends on how quickly the consumer wants access to the funds. Employers that elect to provide this service to their employees can set rules for the share of total net earnings that can be accessed and can opt to subsidize the cost of access for their employees. Table B outlines further details of the DailyPay product.

TABLE B: DAILYPAY EARLY WAGE ACCESS SOLUTION

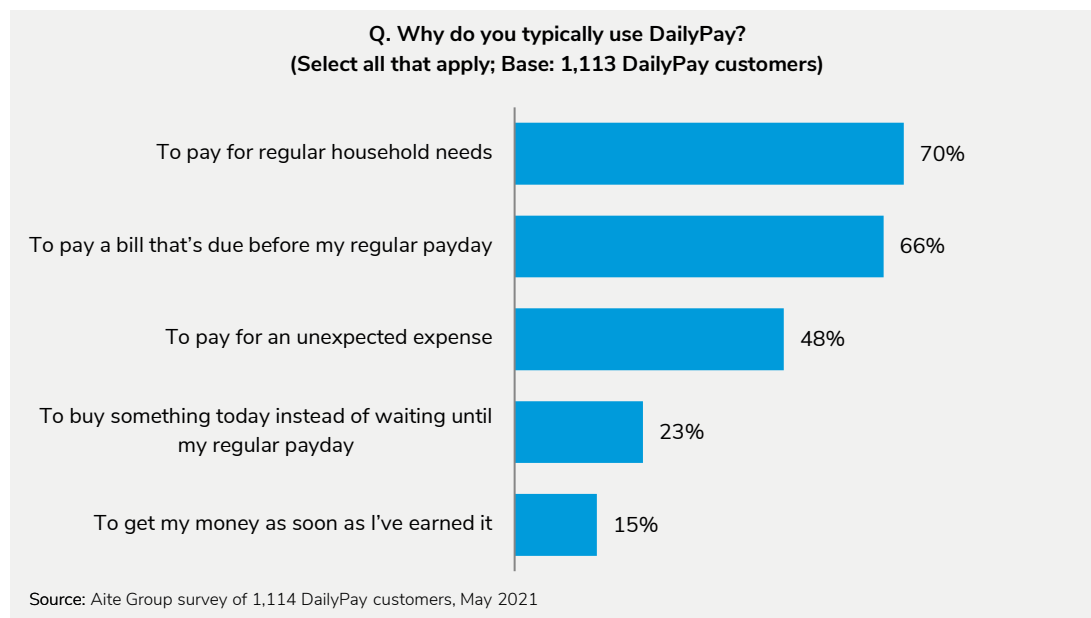
ACCESS AMOUNT	FEE	ACCESS DEPOSIT OPTIONS	OTHER SERVICES
Up to 100% of accumulated net wages; average access is US\$100	US\$1.99 (next day) or US\$2.99 (instant) fee, paid by employer, employee, or in combination	Can be deposited into any bank account or onto a prepaid card	Features that facilitate saving, disbursements of off-cycle payroll payments, and instant bonus payments

Source: DailyPay

## A SHIFT IN FINANCIAL COPING STRATEGIES

DailyPay users most commonly use EWA to deal with everyday expenses. Two-thirds of survey respondents noted that they use DailyPay to pay a bill that is due before their payday, and 70% use DailyPay to pay for regular household needs throughout the month (Figure 1). Fewer consumers use DailyPay for expenses that were unexpected or to make purchases early rather than waiting until their traditional paycheck arrives. Only about one in six users cited the desire to just generally receive funds as they were earned as a reason for using DailyPay.

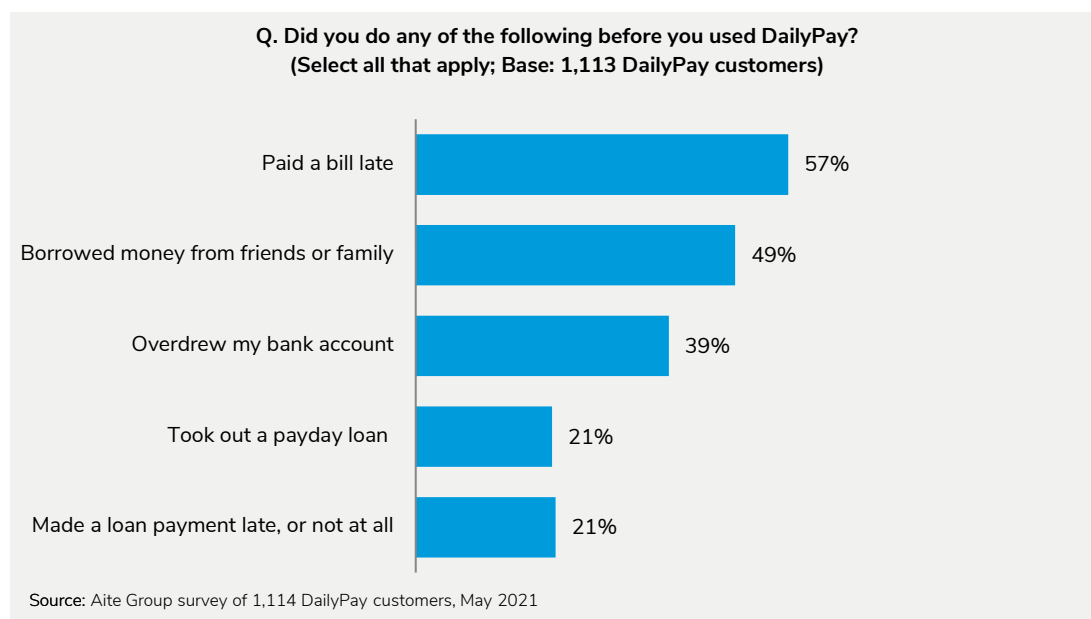
FIGURE 1: REASONS FOR DAILYPAY USE



Before using DailyPay, survey respondents used a variety of strategies to deal with expenses between paydays (Figure 2). Over half (57%) of respondents paid bills late, and about half (49%) borrowed funds from friends or family. While fewer note overdrawing a bank account or using payday loans before DailyPay, the share that did report these strategies is well above the share of U.S. adults. For example, an estimated 30% of all U.S. consumers overdraw a bank account at least once annually (with just 8%

overdrawing more than 10 times over the course of a year),<sup>1</sup> and an estimated 6% of U.S. consumers use payday loans.<sup>2</sup> The strategies asked about in the survey are considered to be inferior alternatives to DailyPay, either because they are more expensive or—in the case of asking friends or family for help—may carry an emotional burden.<sup>3</sup>

**FIGURE 2: STRATEGIES BEFORE USING DAILYPAY**



As is evident from Figure 2, many survey respondents report that they used more than one of these strategies. For example, about one in seven respondents note that they were taking out payday loans and overdrawing their bank account before using

<sup>1</sup> For more information on the share of consumers who incur overdraft fees, see “A Closer Look: Overdraft and the Impact of Opting-In,” Consumer Financial Protection Bureau, January 19, 2017, accessed July 29, 2021, [https://files.consumerfinance.gov/f/documents/201701\\_cfpb\\_Overdraft-and-Impact-of-Opting-In.pdf](https://files.consumerfinance.gov/f/documents/201701_cfpb_Overdraft-and-Impact-of-Opting-In.pdf).

<sup>2</sup> According to the Consumer Financial Protection Bureau’s Making Ends Meet survey, 5.7% of consumers took a payday loan in the 12 months prior to June 2020. See Figure 2 in “Consumer Use of Payday, Auto Title, and Pawn Loans,” Consumer Financial Protection Bureau, May 5, 2021, accessed July 29, 2021, <https://www.consumerfinance.gov/data-research/research-reports/consumer-use-of-payday-auto-title-and-pawn-loans-insights-making-ends-meet-survey/>.

<sup>3</sup> In terms of cost, a US\$300 payday loan typically has a US\$45 fee. If due in two weeks, this equates to an APR of 391%. Similarly, overdraft fees are typically around US\$34 per incident. Being late on a credit card or other loan may not only cause a consumer to be charged an additional fee but can also lower their credit score.

DailyPay. The financial and emotional toll may have been further magnified for these consumers, placing them in an even more precarious position.

## SUBSTITUTION AWAY FROM INFERIOR ALTERNATIVES

For each of these strategies noted in the survey, respondents were asked how frequently they used it before using DailyPay. Then, respondents were asked whether they added on DailyPay while continuing to use the strategy or were able to substitute DailyPay for it. Overall, respondents consistently reported a reduction or end to the use of these arguably more costly alternatives with the availability of DailyPay.

### Frequency of Previous Strategies

Those respondents who used one of the strategies prior to using DailyPay tended to use it quite frequently to deal with their financial situation. Two-thirds of respondents who reported that they either had trouble paying bills or making on-time loan payments had this issue every month (39%) or most months (28%) before they used DailyPay (Figure 3). Similarly, over half of respondents (56%) who previously asked friends or family for money did so at least once per month (Figure 4).

FIGURE 3: PREVIOUS FREQUENCY OF BILL AND LOAN PAYMENT DIFFICULTY

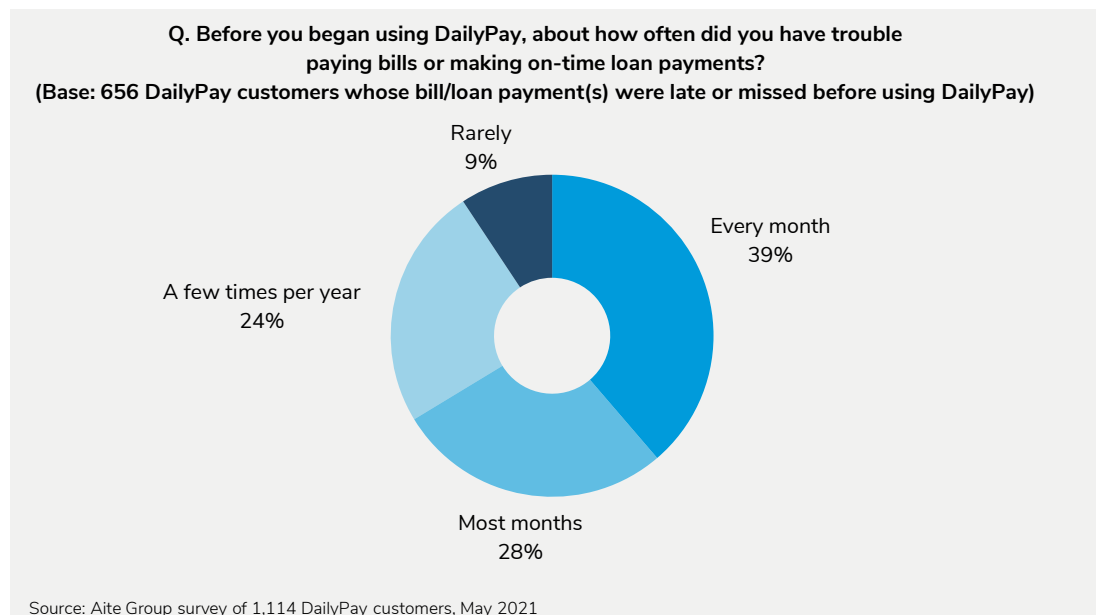
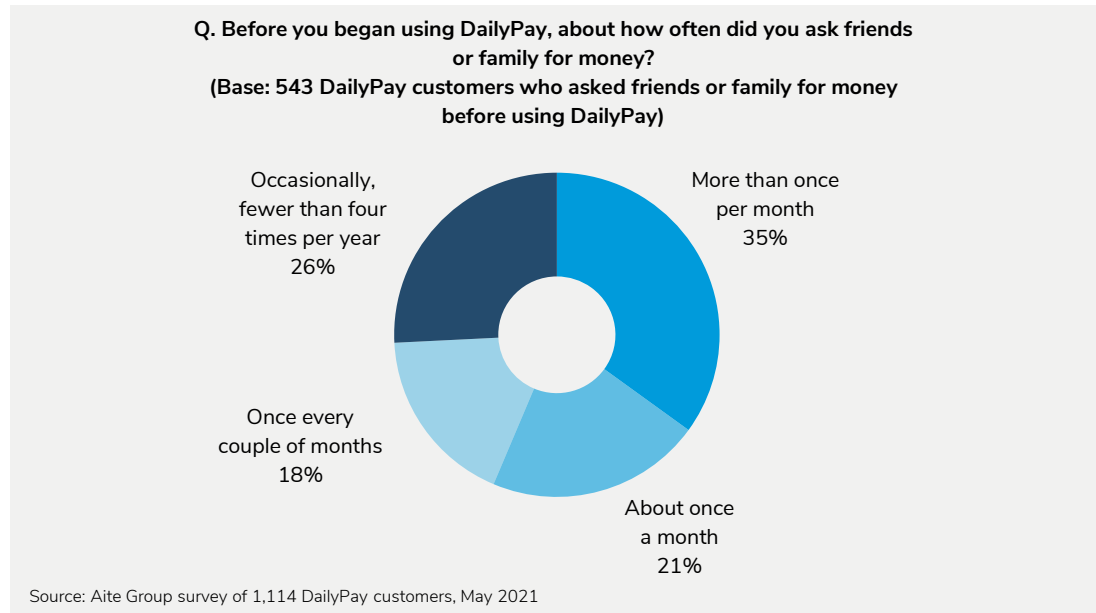


FIGURE 4: PREVIOUS FREQUENCY OF REQUESTS FOR FRIENDS OR FAMILY HELP



Payday loan borrowing and overdraft fees were also regular occurrences for respondents who previously used these strategies. For example, over a quarter (28%) of respondents who used payday loans were indebted every month, and an additional 17% were in payday loan debt much of the year (Figure 5). The frequency of overdrafts was perhaps the most pronounced among these strategies, with 38% of respondents who overdrawing their account more than once a month, and another 21% experiencing an overdraft monthly (Figure 6).

FIGURE 5: PREVIOUS FREQUENCY OF PAYDAY LOAN USE

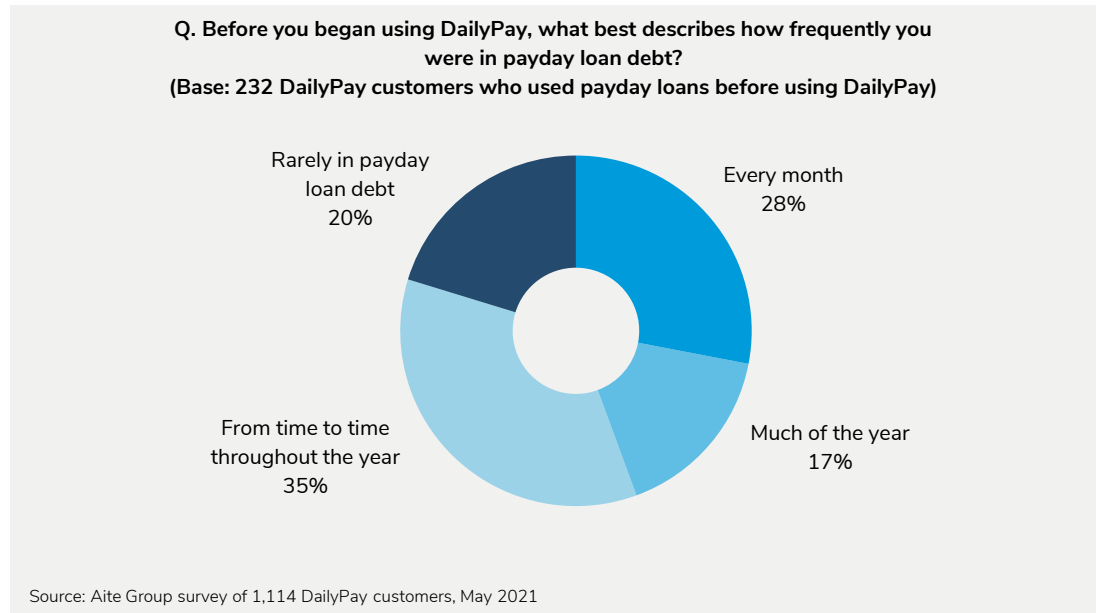
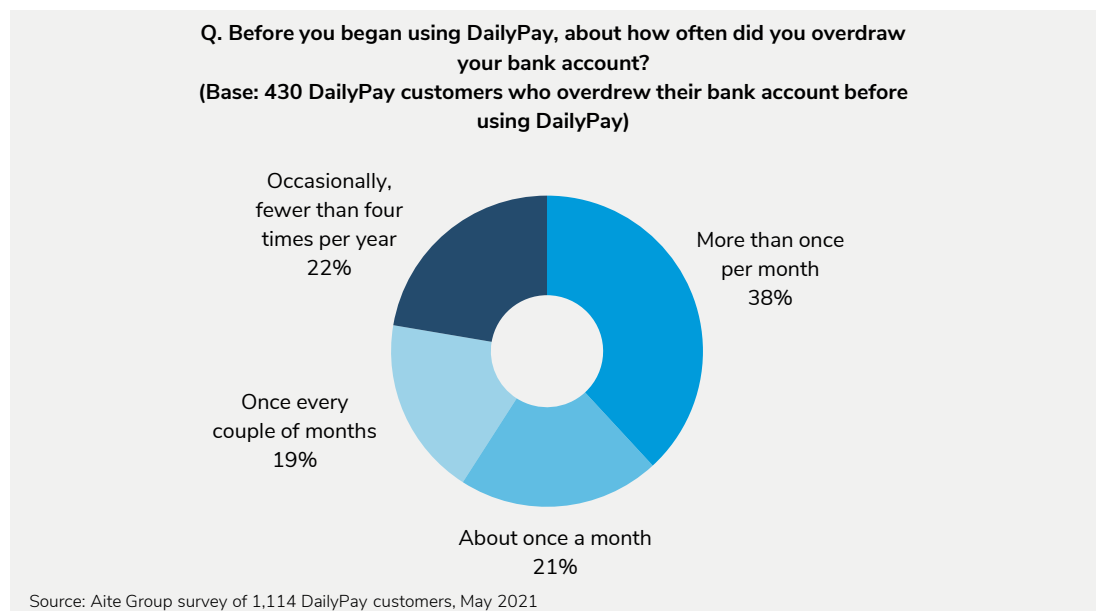


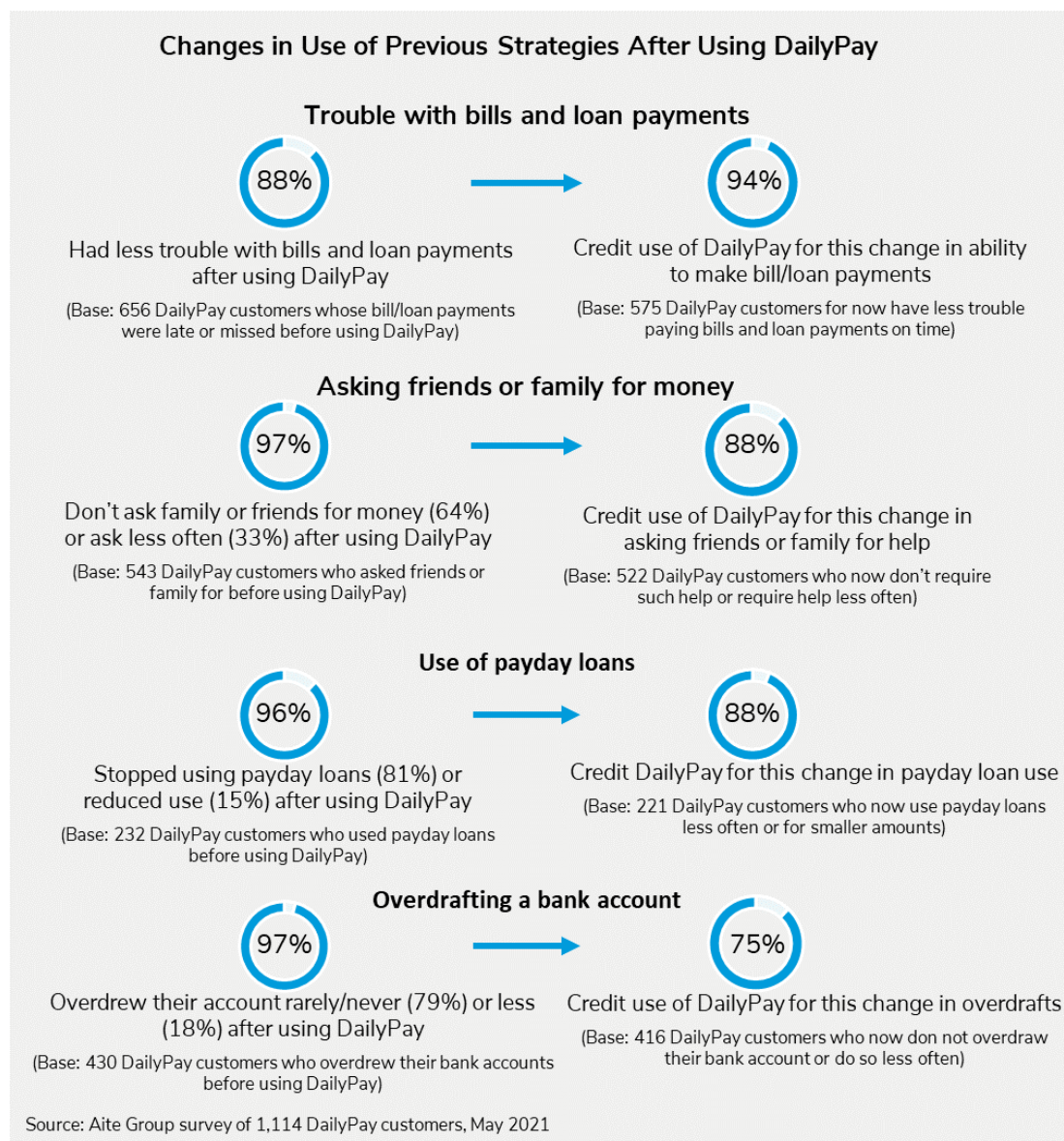
FIGURE 6: PREVIOUS FREQUENCY OF OVERDRAWN BANK ACCOUNT



## Changes After DailyPay

Once respondents started using DailyPay, a large majority changed their use of those previous strategies, either reducing their use or stopping it entirely (Figure 7). When asked whether DailyPay was the catalyst for this changed behavior, most respondents attributed the change to DailyPay rather than another factor, such as a change in income or expenses.

FIGURE 7: CHANGES IN USE OF PREVIOUS STRATEGIES AFTER USING DAILYPAY

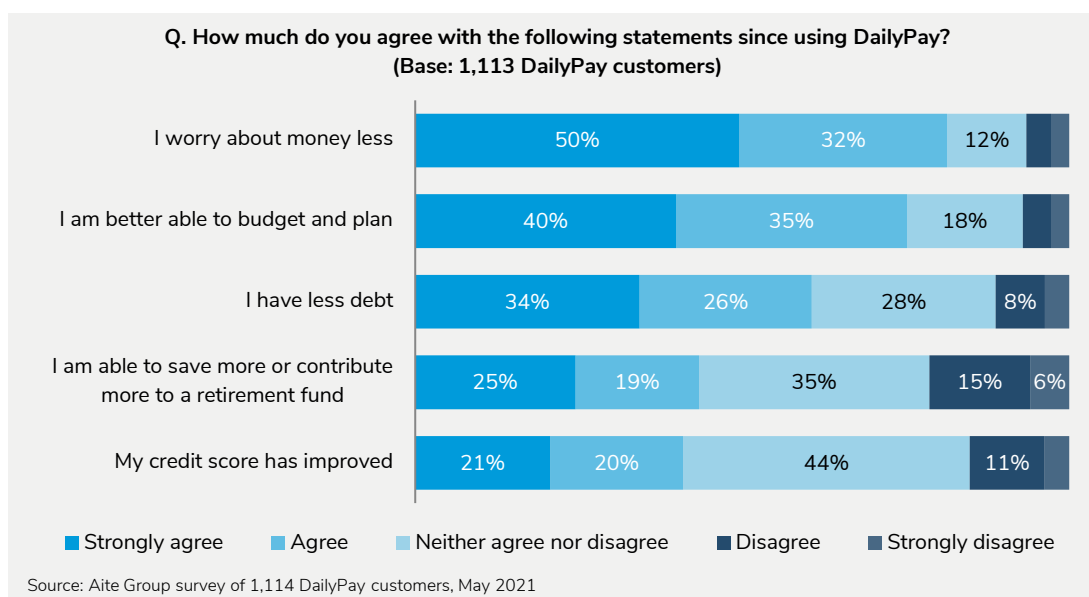


## PERCEIVED CHANGES TO FINANCIAL CONDITION

Given the substitution that many survey respondents made away from costlier alternatives when DailyPay became an option, users were asked to what extent they agreed or disagreed with statements related to their financial well-being. A large majority of users note that they worry about money less and are better able to budget a plan, and over 60% agreed with the statement that they were able to reduce their debt (Figure 8).

Somewhat fewer respondents believed that they were able to save more (either for short-term needs or retirement) or that their credit score improved as a result of using DailyPay. This is likely due to the fact that these changes would be secondary effects of DailyPay use: for example, if a consumer incurred fewer late or overdraft fees and—after becoming more financially stable—was then able to start saving or slowly rebuild their credit through on-time loan payments. Aite-Novarica Group hypothesizes that many consumers switching from costly alternatives to DailyPay first need to stop the immediate financial crisis and then gradually make longer-term investments in their financial well-being.

**FIGURE 8: CHANGES IN FINANCIAL OUTLOOK SINCE USING DAILYPAY**

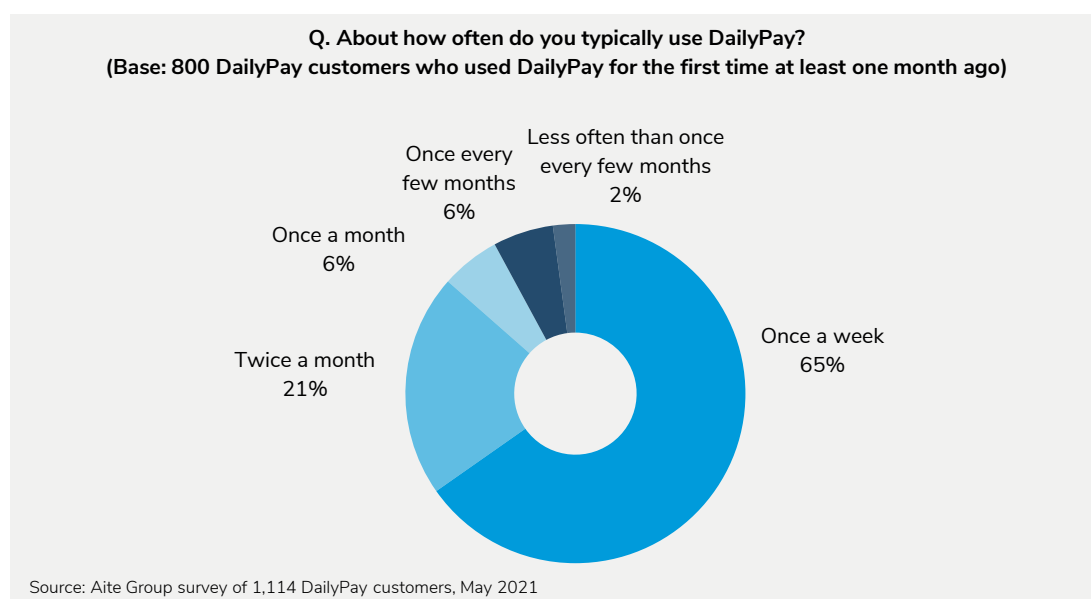


## PERCEPTIONS OF FREQUENT AND INTENSE DAILYPAY USERS

DailyPay customers can use an EWA at any time during their pay period, so long as they have accumulated earned wages. The survey asked respondents about their frequency of use and the intensity of that use, in terms of the share of total net pay they typically access in a given pay period when DailyPay was used.

About two-thirds (65%) of DailyPay users report that they use EWAs weekly, while another 27% note that they use it once or twice per month (Figure 9).

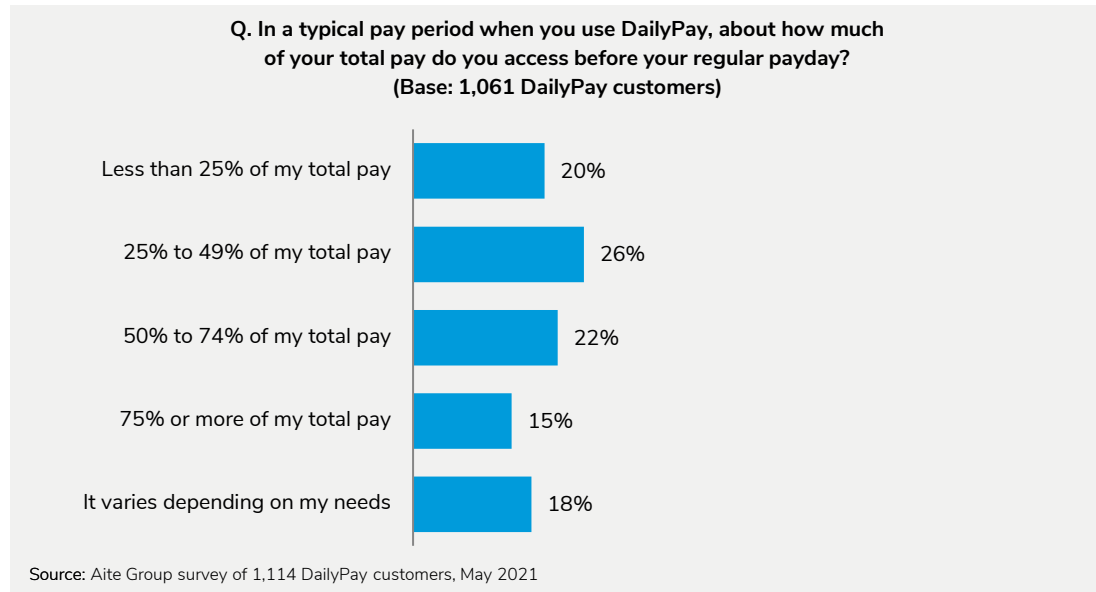
FIGURE 9: FREQUENCY OF DAILYPAY USE



Results were more varied in terms of the total share of net wages accessed, with 46% of respondents stating that they typically access less than half of their total earnings in a given pay period and 37% accessing 50% or more (Figure 10).<sup>4</sup> The remainder of users noted that the intensity of their use varied across pay periods. These users were somewhat more likely to also report that their household income varied each month, which may be one driver of this usage pattern.

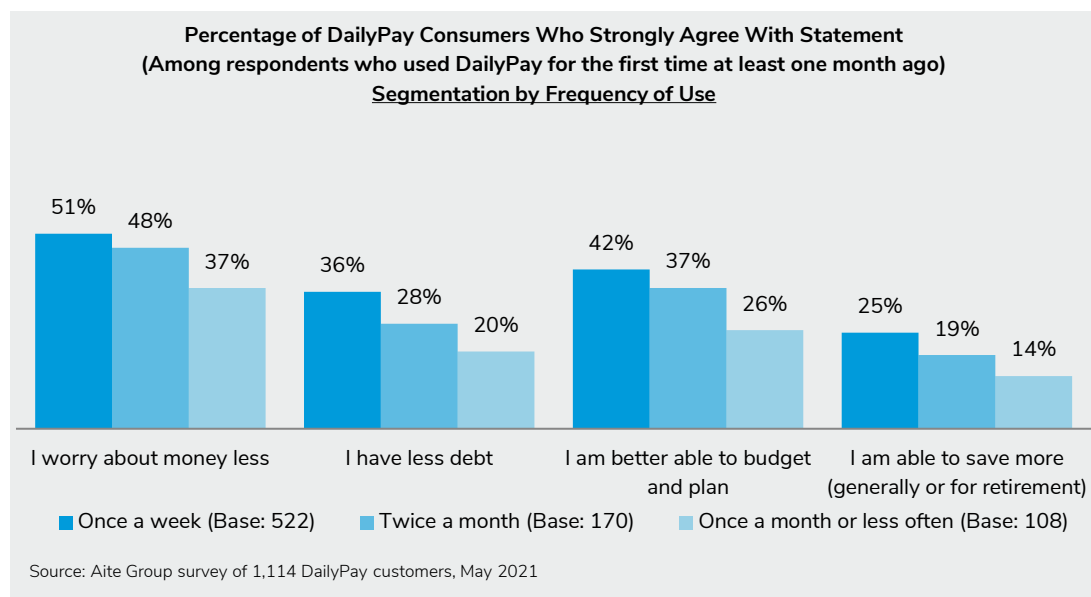
<sup>4</sup> While DailyPay allows users to access up to 100% of their accumulated net wages, some employers have imposed restrictions on the percentage of wages that can be accessed early. Thus, some respondents may not have the option to select the higher intensity categories.

FIGURE 10: INTENSITY OF DAILYPAY USE



Aite-Novarica Group compared the most frequent and intense users of DailyPay to their peers to see if the financial outcomes they report after using DailyPay differed in a statistically significant way. As shown in Figure 11, those who use DailyPay once per week were more likely to strongly agree with several statements regarding their changed financial condition relative to those who use the product no more than once per month. Thus, we do not see evidence that more frequent use is linked to worse outcomes as it relates to user sentiment of their financial condition.

**FIGURE 11: FINANCIAL OUTCOMES REPORTED BY FREQUENT USERS, RELATIVE TO LESS FREQUENT USERS**

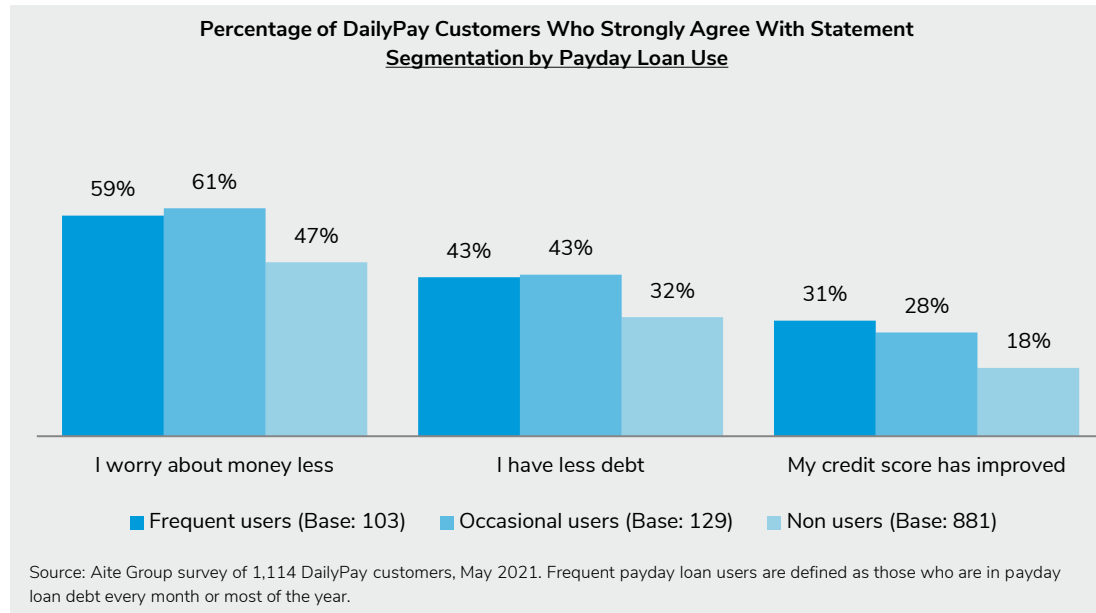


## IMPACT OF DAILYPAY ON PRIOR PAYDAY LOAN BORROWERS AND OVERDRAFTERS

As those consumers who were the most frequent users of payday loans and those who repeatedly overdrawn their accounts are arguably among the most financially fragile, Aite-Novarica Group looked at these subsets of respondents to understand their perceived outcomes relative to others who did not use these products as extensively or at all.

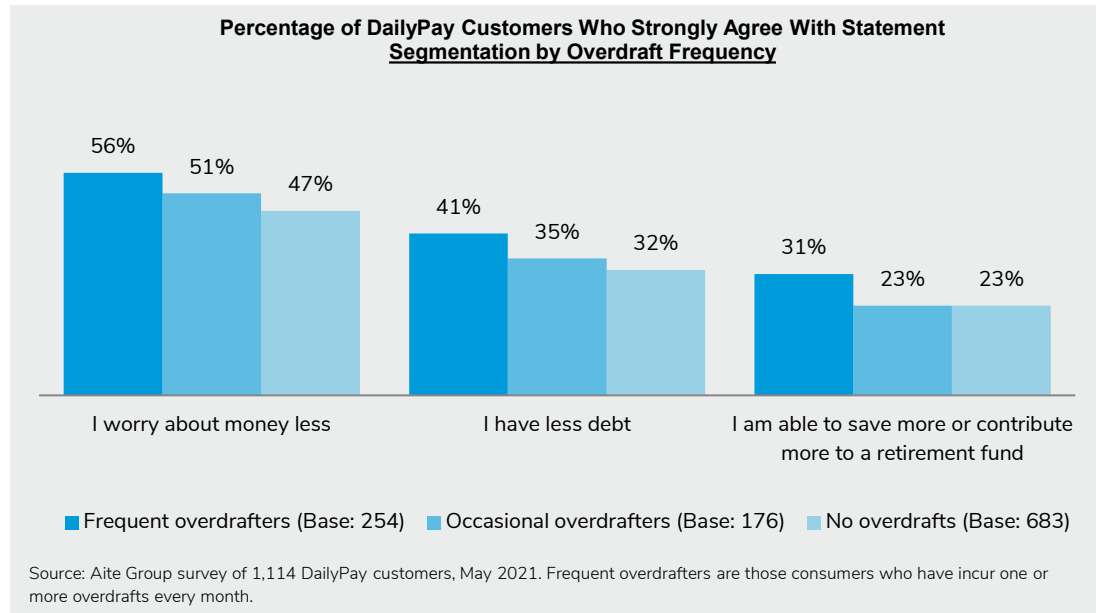
As noted earlier, those consumers who were in payday loan debt either every month or most of the year made up nearly half (45%) of all respondents who noted that they used payday loans before turning to DailyPay. These frequent payday loan users were significantly more likely to strongly agree with statements that they now worry about money less, have less debt, and have an improved credit score than their peers who did not take out payday loans prior to using DailyPay (Figure 12).

FIGURE 12: FINANCIAL OUTCOMES BY PRIOR PAYDAY LOAN BORROWING FREQUENCY



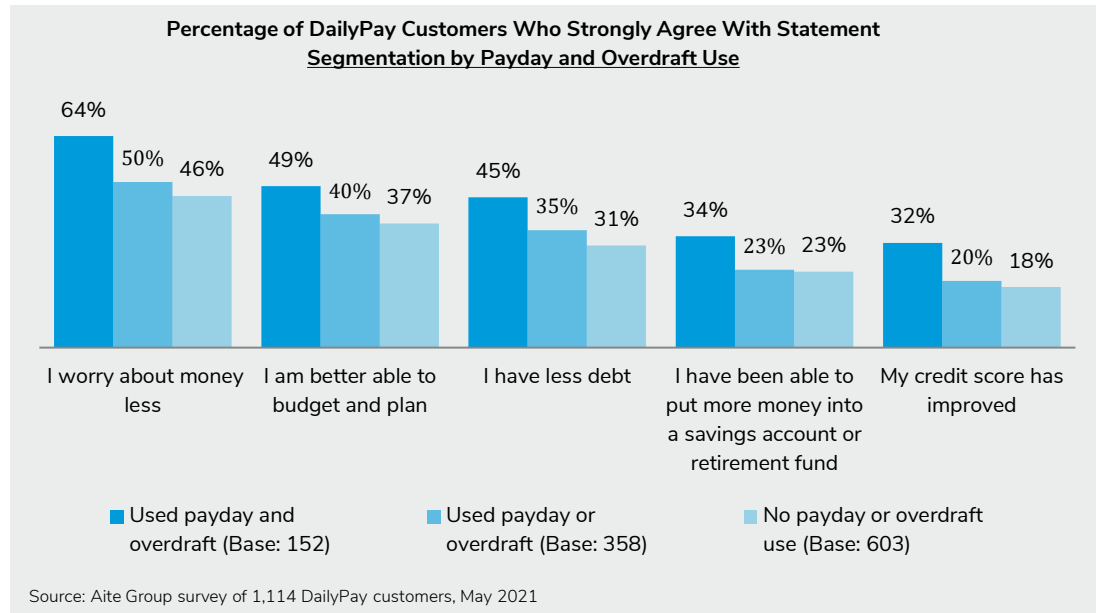
Similarly, Aite-Novarica Group compared those consumers who previously overdrew their bank account at least once per month to those who either overdrew less frequently or did not experience overdrafts. Similar to the experiences of those with prior frequent payday use, the most frequent overdrafters were more likely to strongly agree with statements about improved financial outcomes than those who overdrew less frequently or not at all. (Figure 13).

FIGURE 13: FINANCIAL OUTCOMES BY PRIOR OVERDRAFT FREQUENCY



As noted earlier, 14% of survey respondents used payday loans and also incurred overdraft fees before starting to use DailyPay. These consumers expressed similar sentiments about their improved financial condition, with significantly higher levels of agreement on several dimensions of financial well-being compared to respondents who only used payday loans or incurred overdraft fees (but not both) and those who did not have a prior history of payday loan borrowing or overdraft fees (Figure 14).

FIGURE 14: FINANCIAL OUTCOMES FOR PRIOR USERS OF PAYDAY LOANS AND OVERDRAFT



The findings in Figure 12, Figure 13, and Figure 14 suggest that DailyPay customers who are more financially vulnerable before using EWA perceive the greatest benefits of switching from their previous strategies to DailyPay.

## CONCLUSION

### EWA providers:

- **First, stop the bleeding.** Many employees face precarious financial conditions due to timing mismatches between their income and expenses or a lack of savings. Alternatives to high-cost credit or penalty fees can help them regain control of their finances. EWAs that are structured and priced appropriately can serve as one such alternative.
- **Once stabilized, facilitate customers' continued path toward financial stability.** Once these employees are on a more stable financial footing, they may be receptive to other tools and services from their EWA provider that allow them to save and improve their credit.
- **Continue efforts to understand usage and outcomes.** While the EWA market has grown considerably in recent years, it is still in its early stages. Employers, regulators, consumer advocates, and other stakeholders (in addition to EWA providers themselves) still need to better understand who makes up the EWA customer base, how these products are used, and the impacts on myriad customer segments.

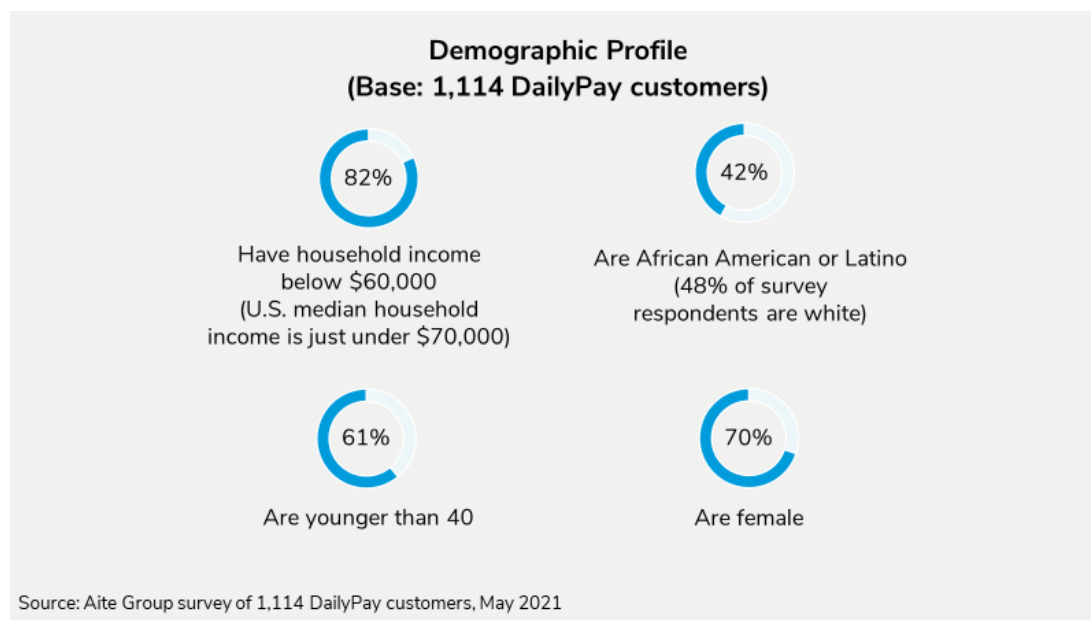
### Other EWA stakeholders:

- **Engage with EWA providers to assist with users' financial wellness journeys.** EWA providers are interested in helping their customers save and build credit. Organizations with expertise in these areas should consider partnerships with EWA providers to distribute these tools to a captive audience.
- **Develop data-driven recommendations for the future of the market.** Since this is still a relatively new product offering, much remains to be learned about customers' needs and outcomes. More research can help inform policy discussions, allowing EWA providers to refine their offerings intelligently.

## APPENDIX: SURVEY RESPONDENT PROFILE

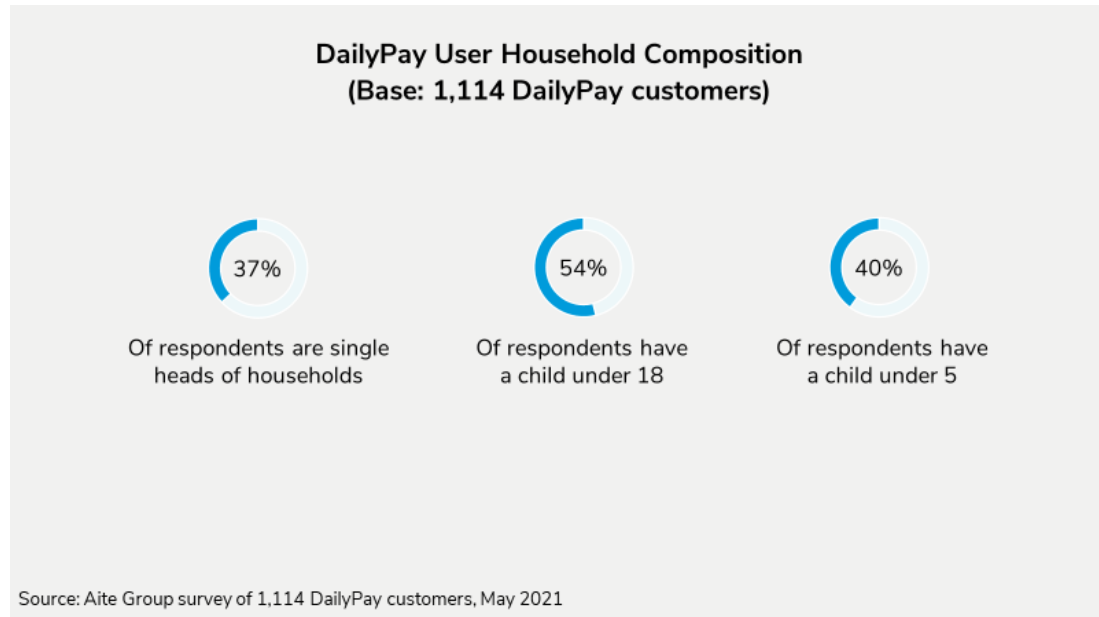
Relative to the general U.S. adult population, DailyPay users who participated in this survey are more likely to be younger, female, non-white, and lower-income (Figure 15). DailyPay notes that this demographic profile is consistent with its overall customer base.

FIGURE 15: DEMOGRAPHIC PROFILE



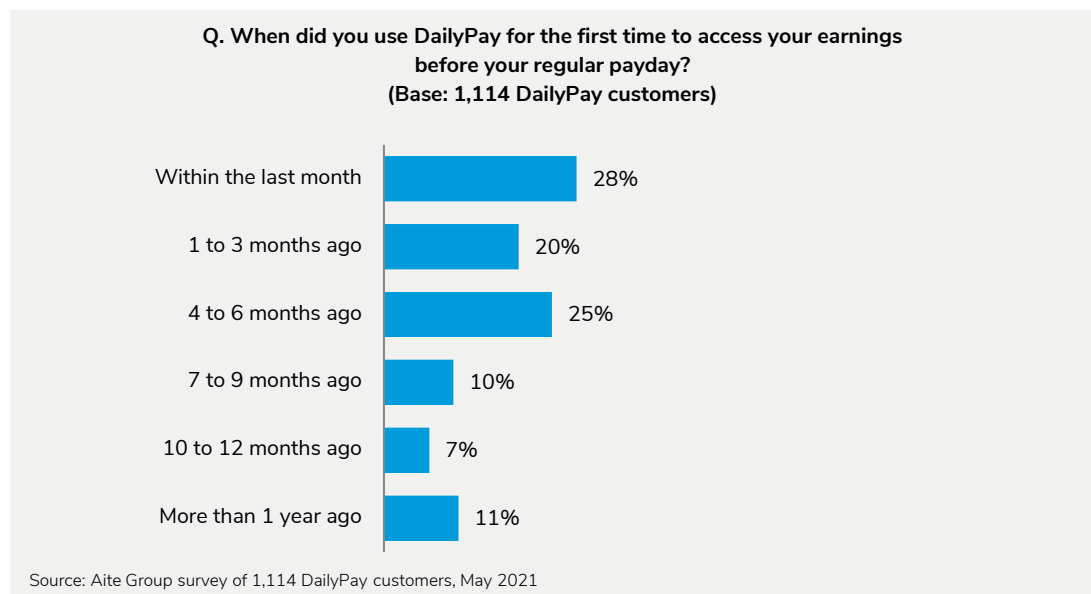
Over half of survey respondents have a child, and at least one child in the household is relatively young. About four in 10 respondents are single heads of households (Figure 16).

FIGURE 16: DAILYPAY USER HOUSEHOLD COMPOSITION



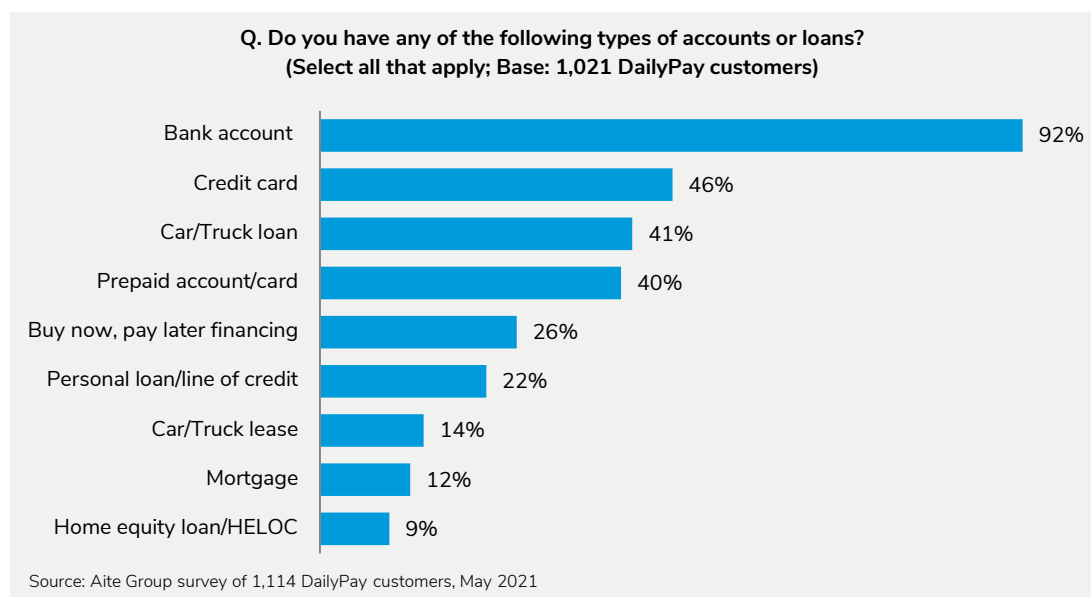
Most of the survey respondents only had access to DailyPay through their employer for a relatively short period of time. For example, nearly half (48%) had used DailyPay for the first time within the last three months (Figure 17). This is likely driven by the fact that employers offering DailyPay generally experience higher employee turnover rates, especially among those employees who are more junior and paid hourly, which seems to align with the respondent base.

FIGURE 17: DISTRIBUTION OF DAILYPAY TENURE



Likely driven by factors such as their income and age, DailyPay survey respondents were less likely to have certain types of financial products, such as mortgages, and more likely to have a prepaid card (Figure 18).

FIGURE 18: TYPES OF FINANCIAL ACCOUNTS AND SERVICES



## RELATED AITE-NOVARICA GROUP RESEARCH

[Making Ends Meet: On-Demand Pay and Employer-Based Loans](#), February 2021

[Uncertainty Is Certain: Consumers' Financial Outlook at Mid-Year 2020](#), July 2020

## ABOUT AITE-NOVARICA GROUP

Aite-Novarica Group is an advisory firm providing mission-critical insights on technology, regulations, strategy, and operations to hundreds of banks, insurers, payments providers, and investment firms as well as the technology and service providers that support them. Comprising former senior technology, strategy, and operations executives as well as experienced researchers and consultants, our experts provide actionable advice to our client base. The quality of our research, insights, and advice is driven by our core values: independence, objectivity, curiosity, and integrity.

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# DailyPay Employee User Experience Research 2023

Research for DailyPay

# Research Overview

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This research was conducted by Arizent and Employee Benefits News on behalf of DailyPay. The primary objective of the research is to understand how employee users of DailyPay use the service and the impact this has on their behavior and relationship with their employer.

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## Methodology

- This research was conducted online during August 2023 among 10,283 employees. This survey was fielded by DailyPay to current users.
- DailyPay managed the distribution of the survey, guaranteeing the confidentiality of respondent identities (and data would only be displayed in aggregate). User data pertaining to age, industry, and app activity was appended for analysis.

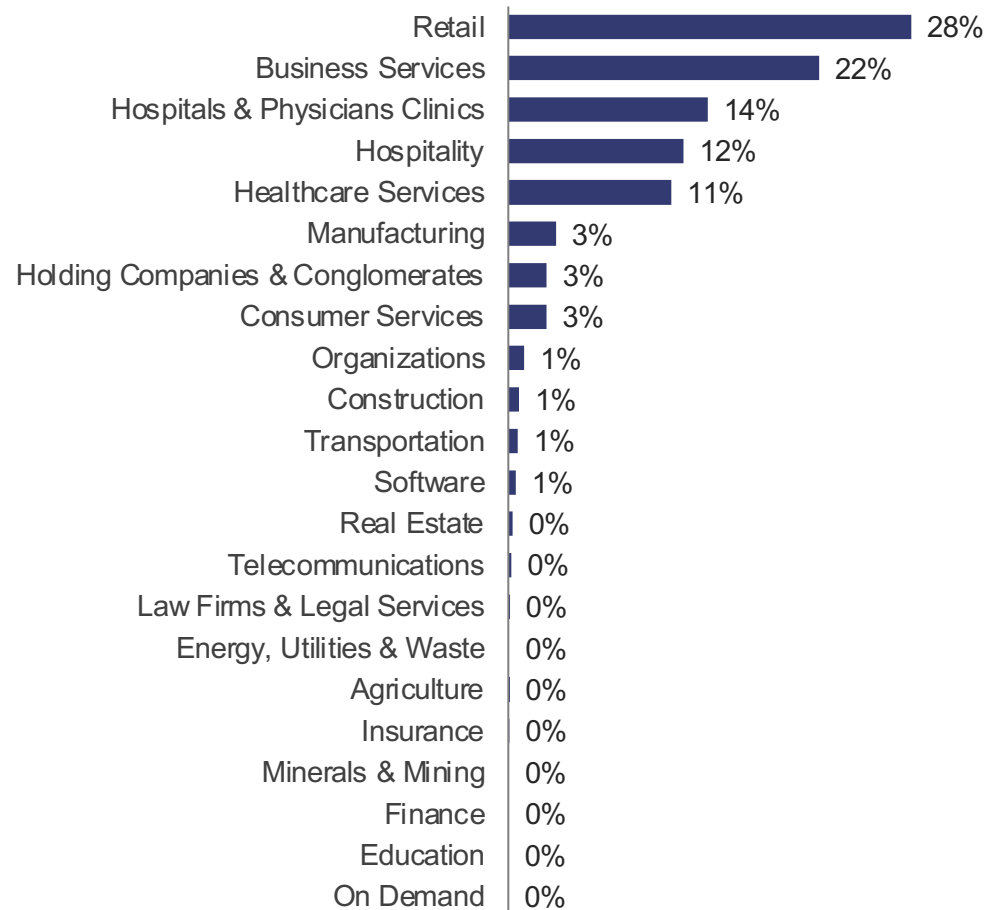
# Industry Profile



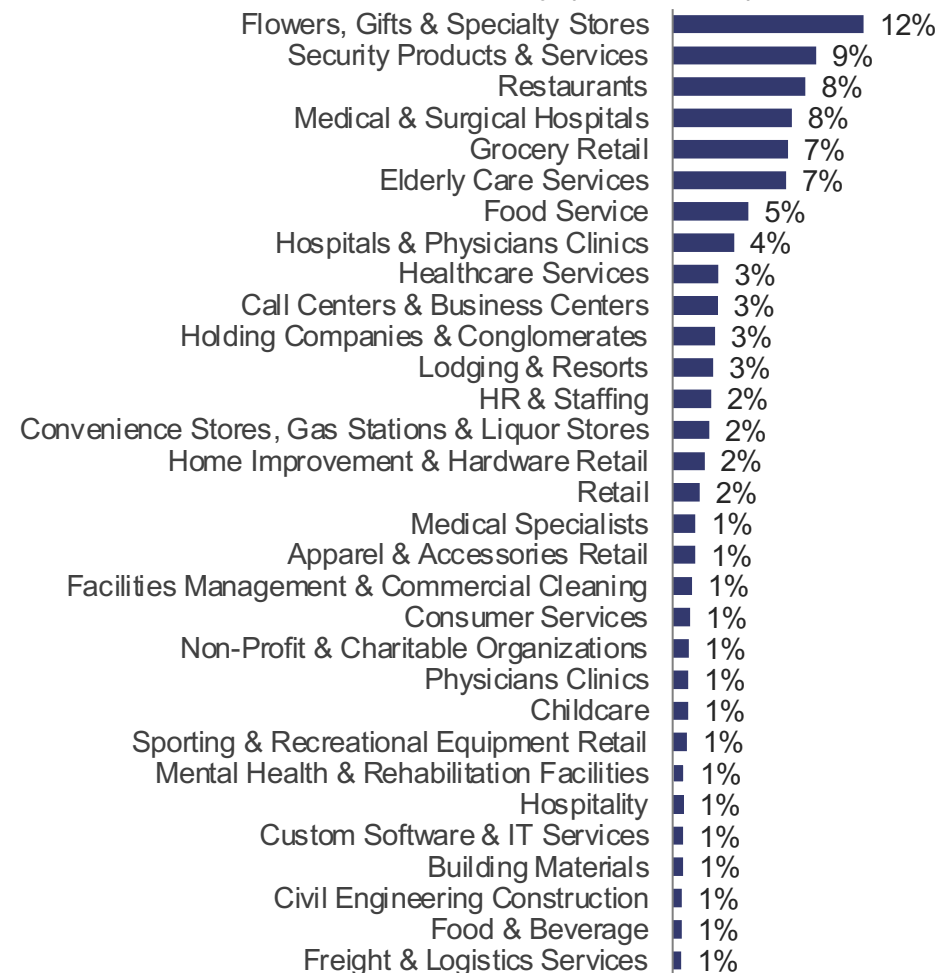
Base: Total Respondents: n=10,283

# Industry Profile

## Industry (Appended)



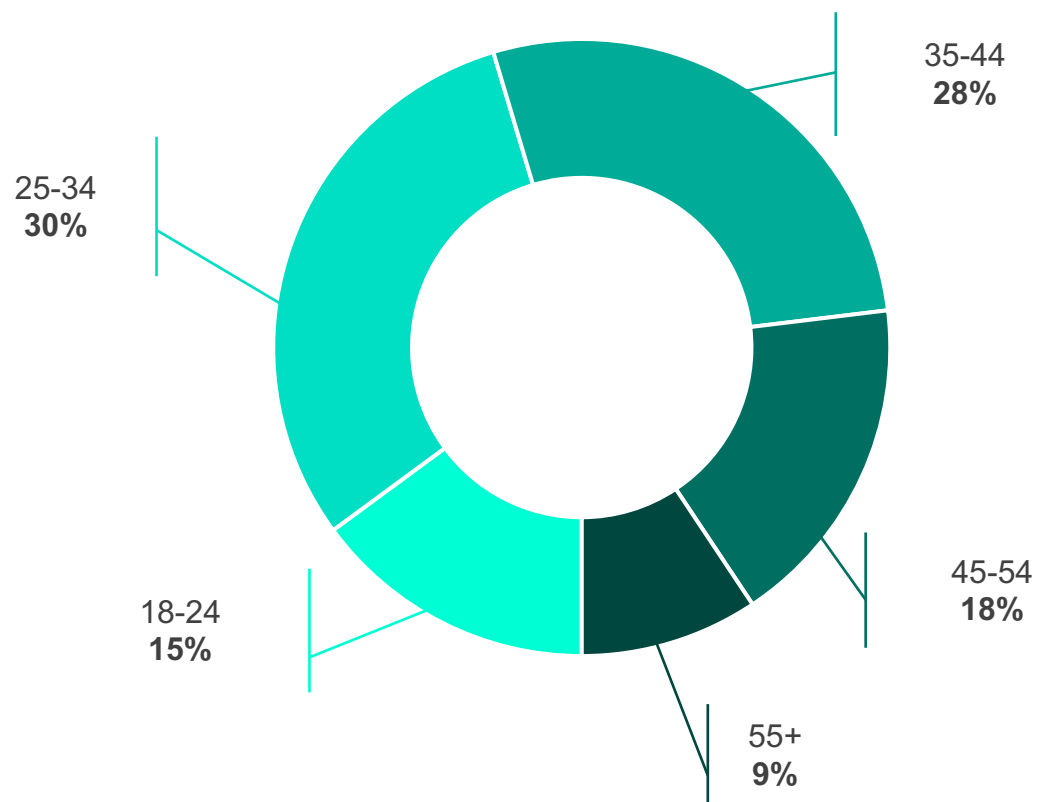
## Sub-Industry (Appended)



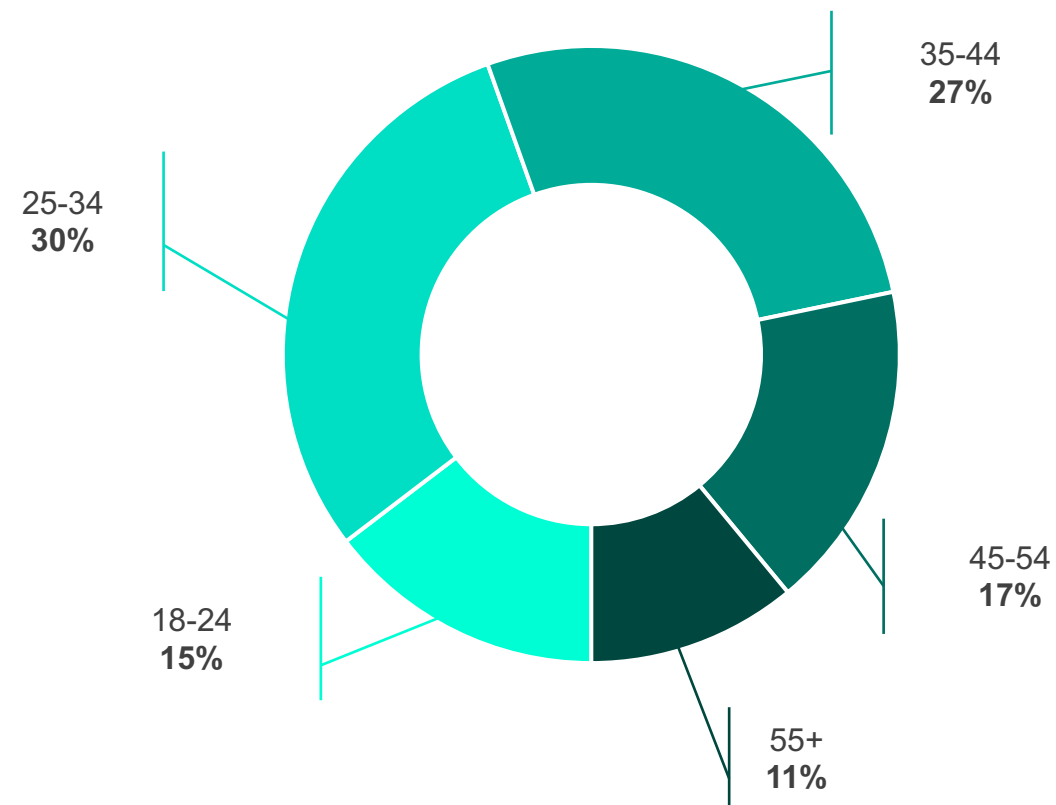
Base: Among respondents with an industry tag:n=9724

# User Profile

Age Group (**Self-reported**)



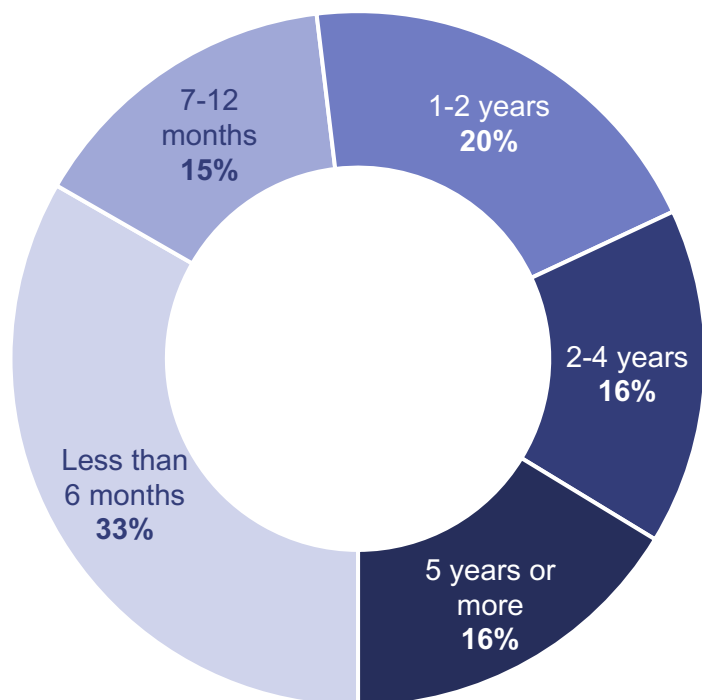
Age Group (**Appended**)



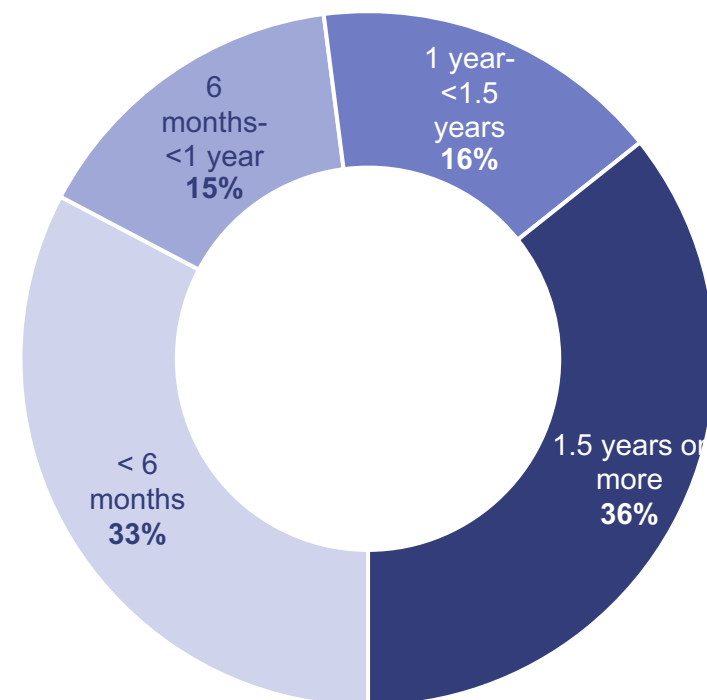
LEFT BASE: Total Respondents: n=10,283; RIGHT BASE: Among respondents with an age tag: n=10141

# User Profile

*Length of Time Using DailyPay (Self-reported)*



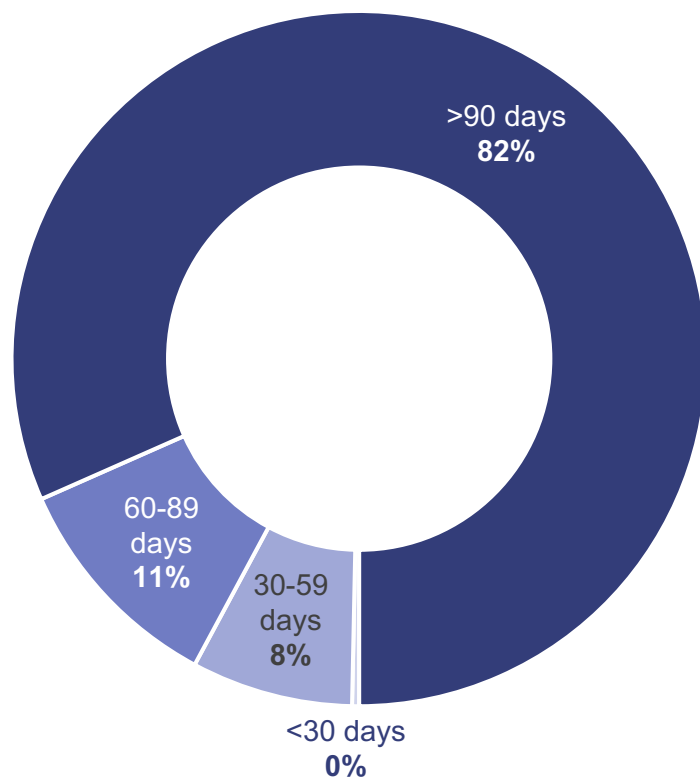
*Length of Time Using DailyPay (Appended)*



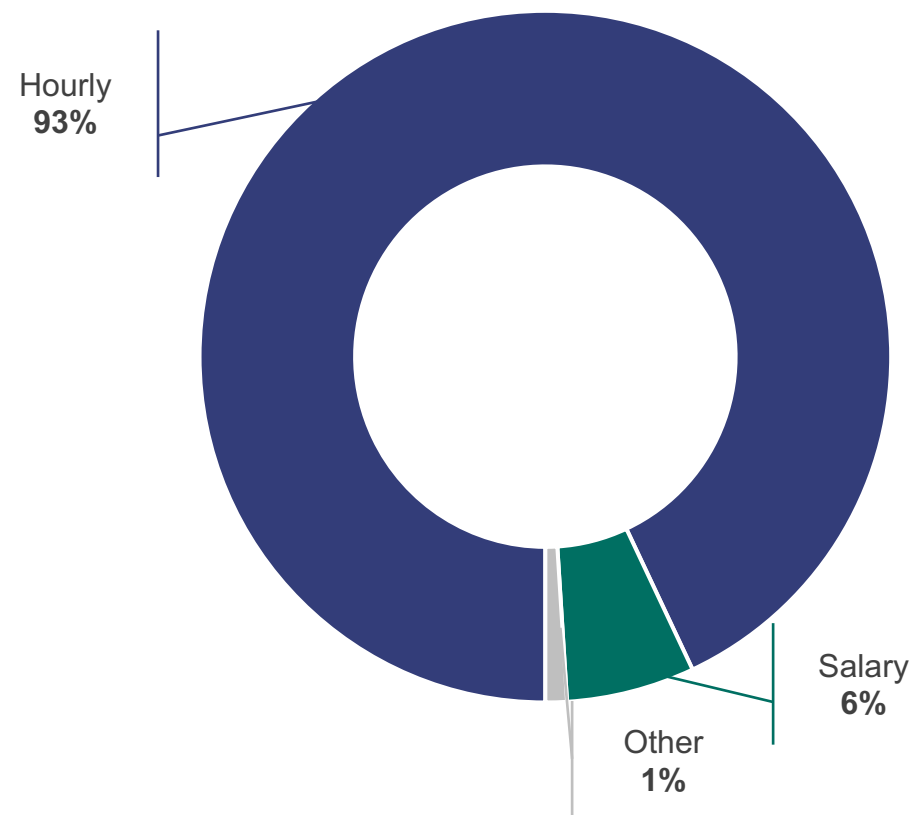
LEFT BASE: Total Respondents: n=10,283; RIGHT BASE: Among respondents with a length of time using DailyPay tag: n=10050

# User Profile

Days Since Enrollment in DailyPay  
(Appended)



Pay Structure



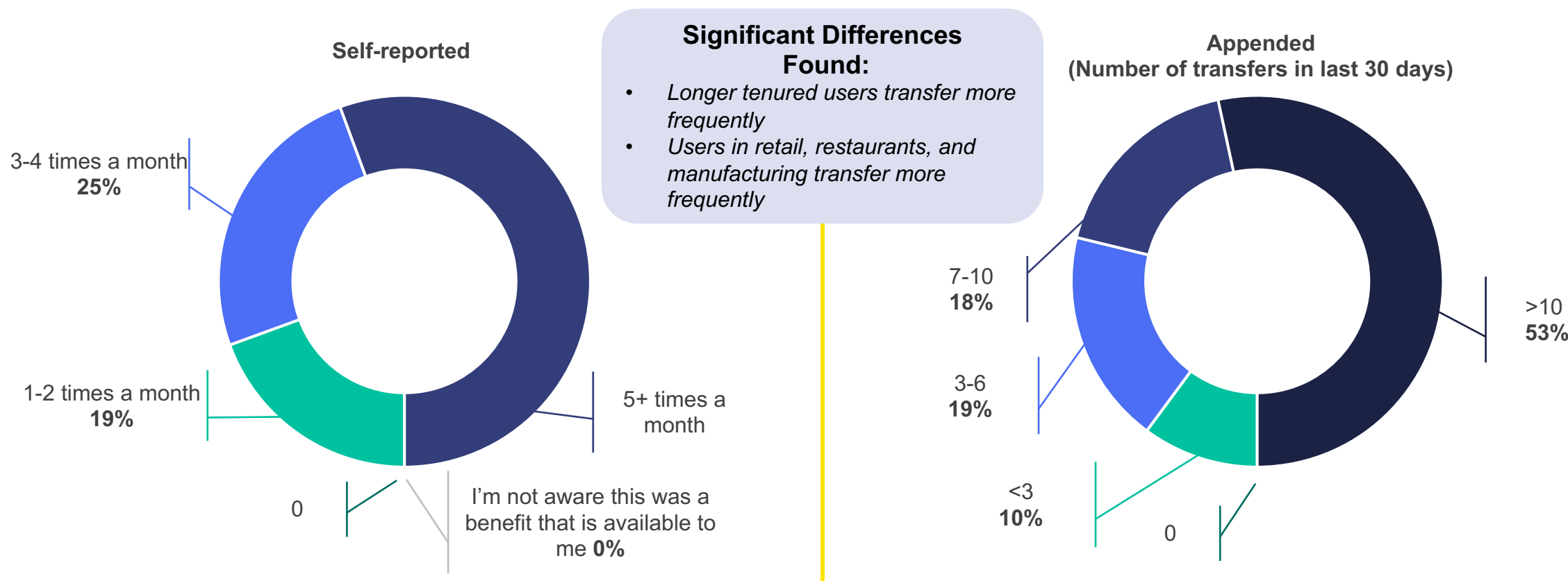
LEFT BASE: Among respondents with a length of time using DailyPay tag: n=10050; RIGHT BASE: Total Respondents: n=10,283

The background features abstract geometric shapes in bright yellow and olive green. A large yellow rectangle is positioned in the lower half, with a smaller yellow rectangle overlapping its top right corner. To the left, an olive green shape extends from the edge, partially overlapping the yellow rectangle. The text 'Detailed Findings' is centered within the yellow rectangle.

## **Detailed Findings**

# More than half of respondents transfer money from DailyPay to their account or paycard at least five times per month

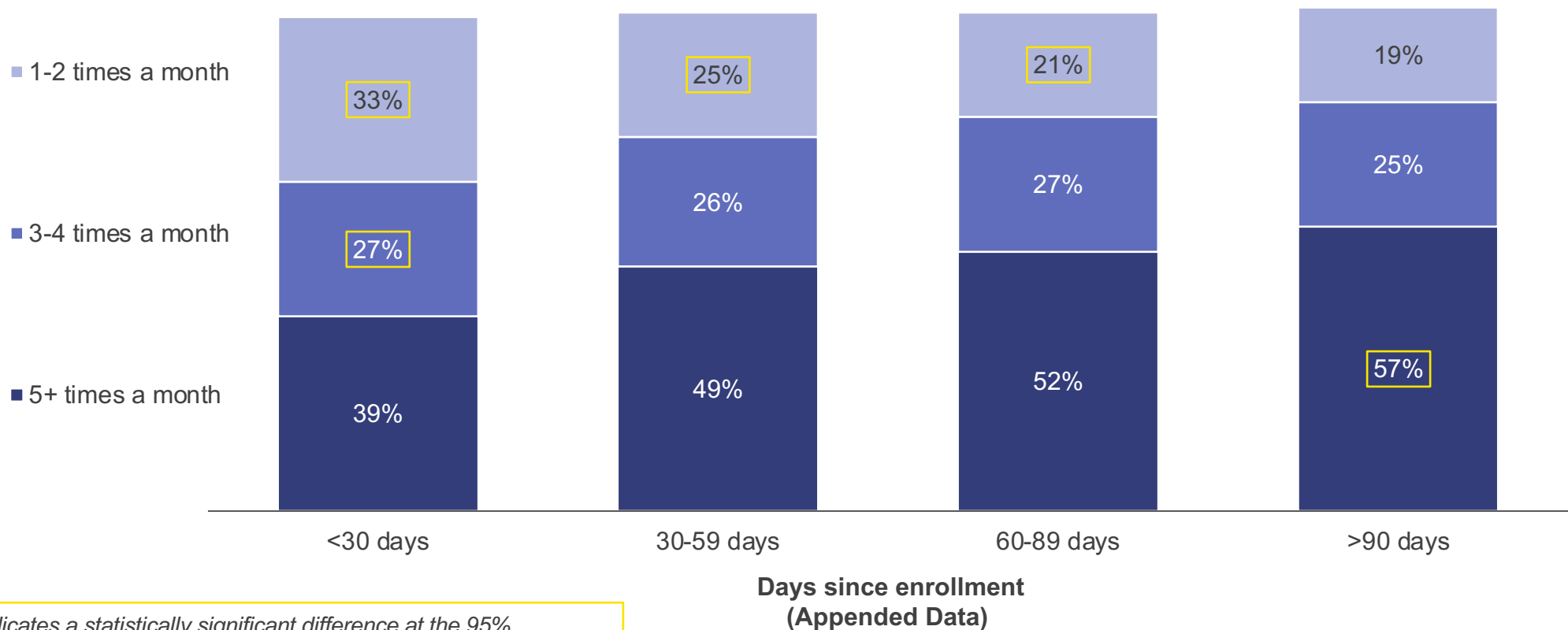
*Roughly how many times in a typical month do you transfer money from your DailyPay account (i.e. transfer money to your bank account or paycard before payday)?*



Base: Total Respondents: n=10,283

# Users who have been enrolled in DailyPay for over 90 days are more likely to be transferring funds 5+ times per month

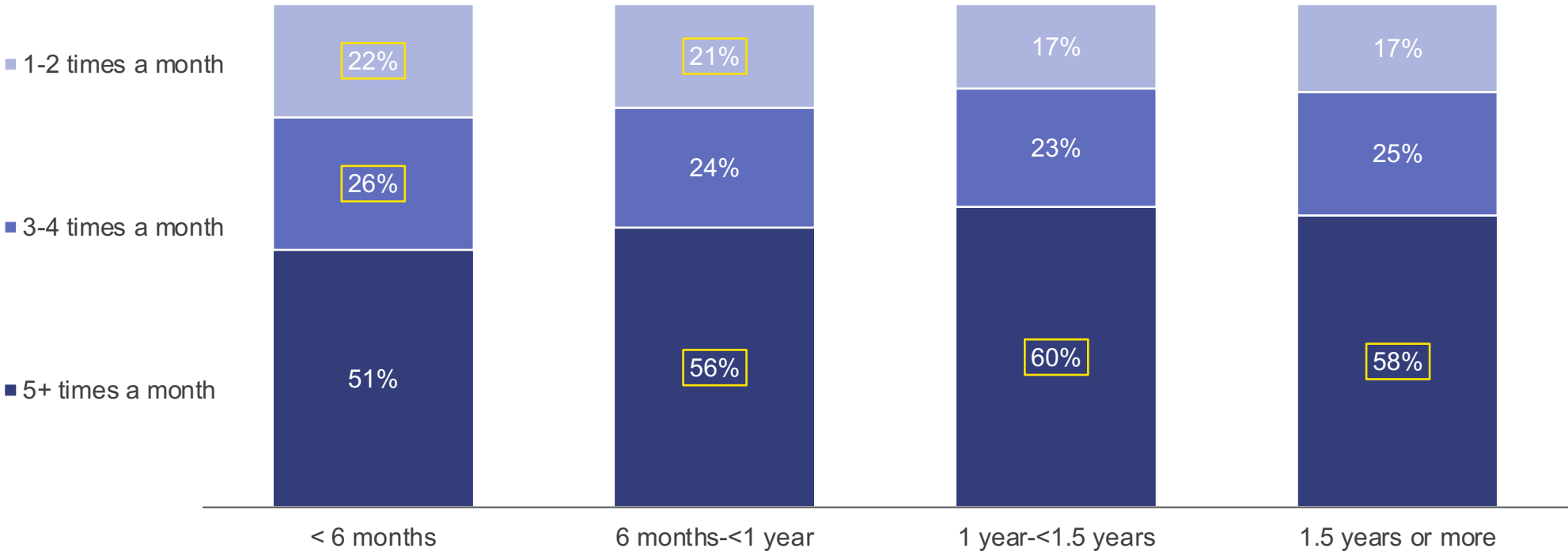
*Roughly how many times in a typical month do you transfer money from your DailyPay account (i.e. transfer money to your bank account or paycard before payday)?*



Base: By Days since enrollment in DailyPay: <30 days: n=33, 30-59 days: n=756, 60-89 days: n=1058, >90 days: n=8203

# Users of 6 months or longer are more likely to make transfers 5+ times per month

*Roughly how many times in a typical month do you transfer money from your DailyPay account (i.e. transfer money to your bank account or paycard before payday)?*



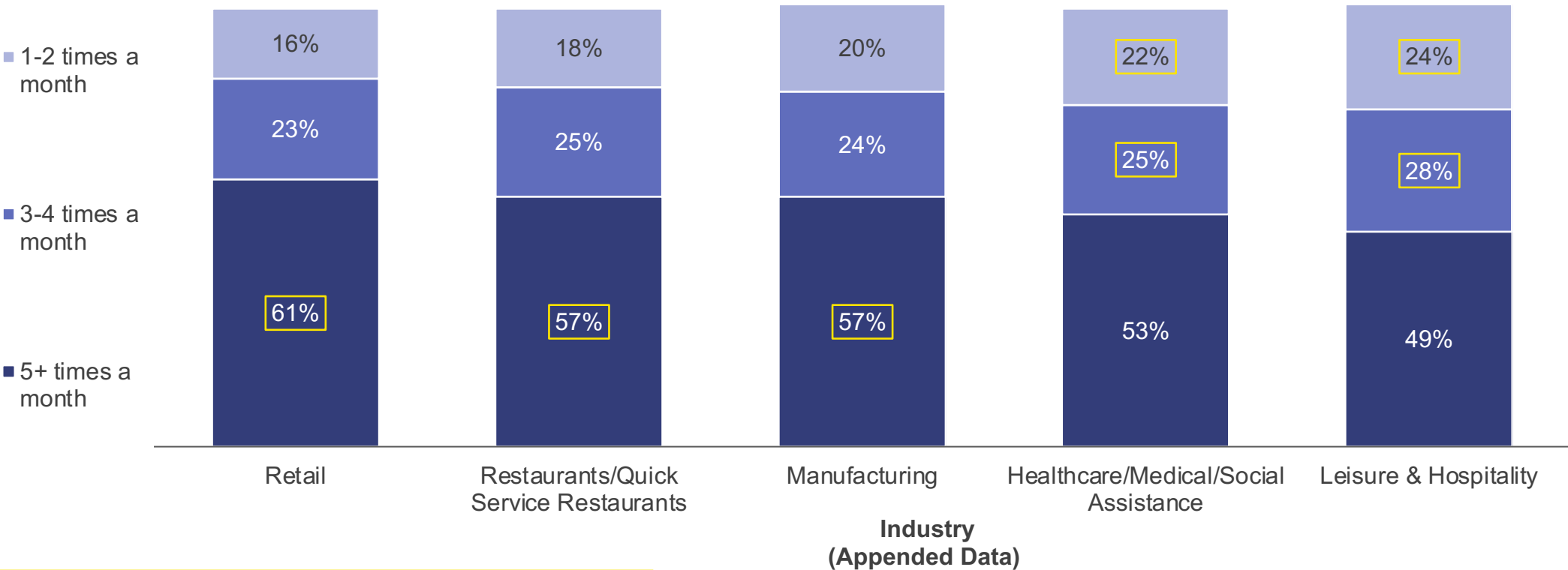
Length of time enrolled  
(Appended Data)

Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: By length of time enrolled: < 6 months: n=3288, 6 months-<1 year: n=1532, 1 year-<1.5 years: n=1643, 1.5 years or more

# Users in retail, restaurants, and manufacturing are more likely to make 5+ transfers per month

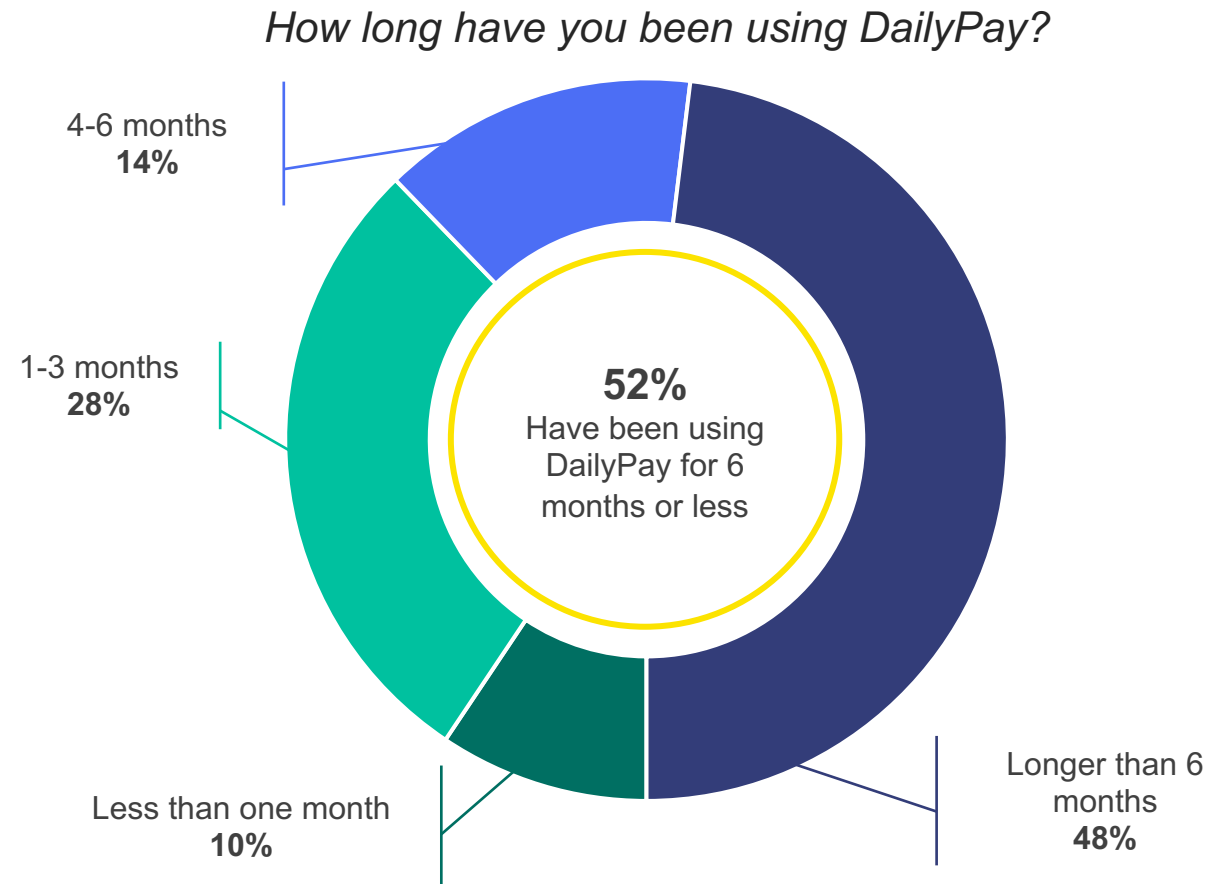
*Roughly how many times in a typical month do you transfer money from your DailyPay account (i.e. transfer money to your bank account or paycard before payday)?*



Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: Among users who fall into one of these key target industries: Retail: n=2731, Restaurants/Quick Service Restaurants: n=821, Leisure & Hospitality: n=367, Healthcare/Medical/Social Assistance: n=2456, Manufacturing: n=322

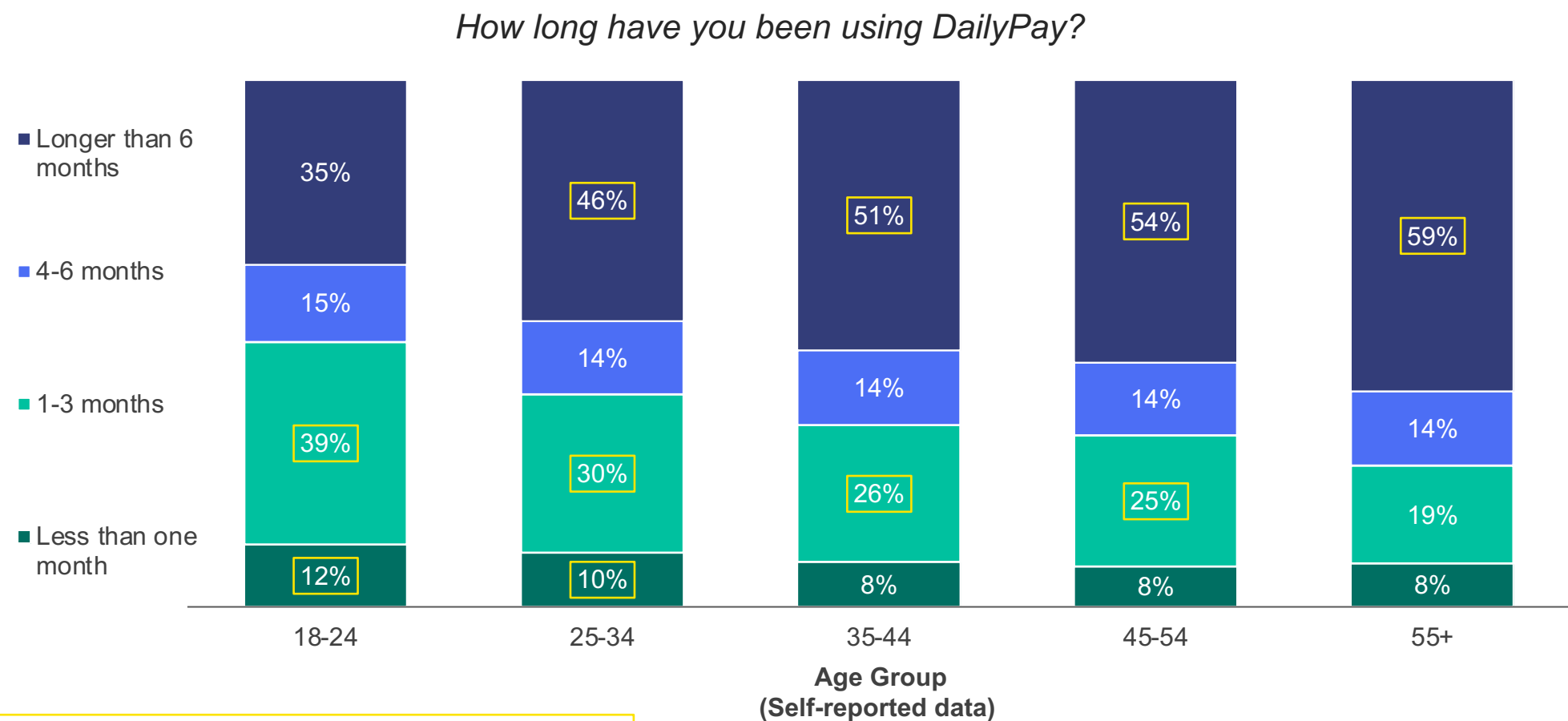
# About half are new users, having used DailyPay for six months or less



## Significant Differences Found:

- Older users have been using DailyPay for longer
- Leisure & hospitality, manufacturing, and restaurant workers tend to be newer users

# Older users have been using the DailyPay app for longer

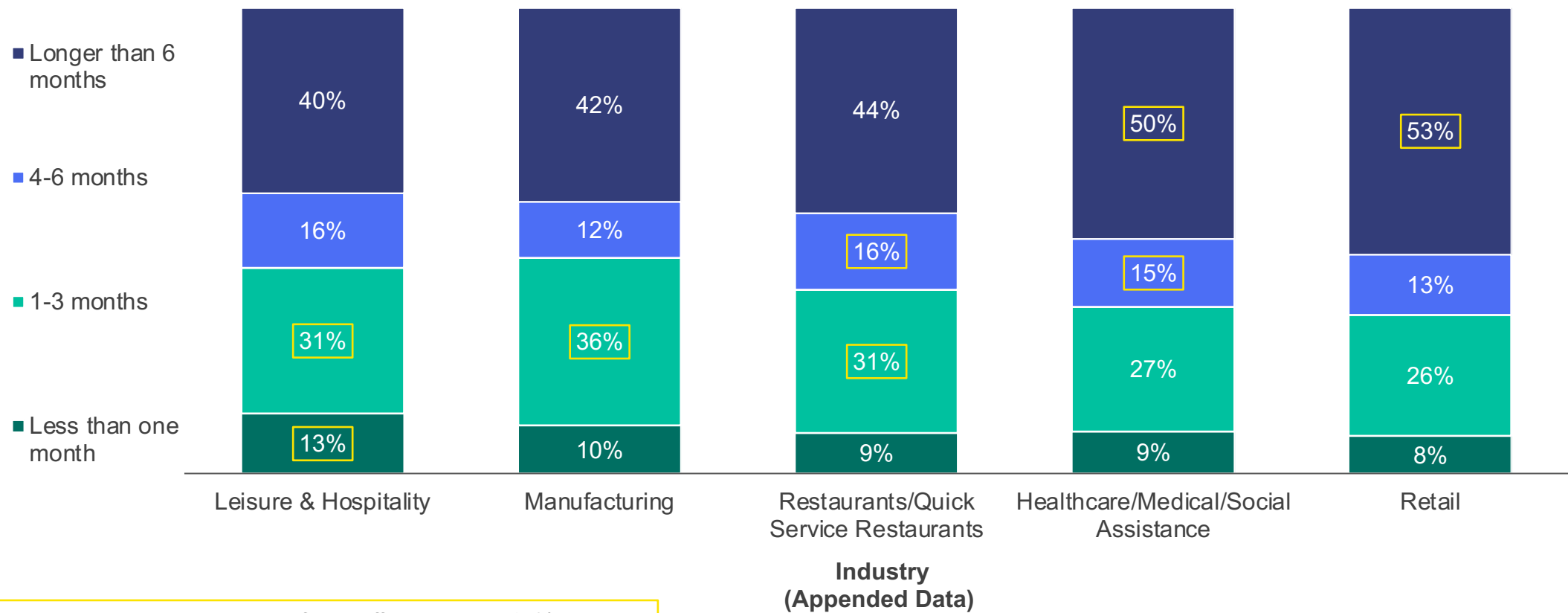


Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: By Age group: 18-24: n=1485, 25-34: n=3032, 35-44: n=2758, 45-54: n=1751, 55+: n=1115

# Most leisure & hospitality, manufacturing, and restaurant workers have been using DailyPay for 6 months or less

How long have you been using DailyPay?

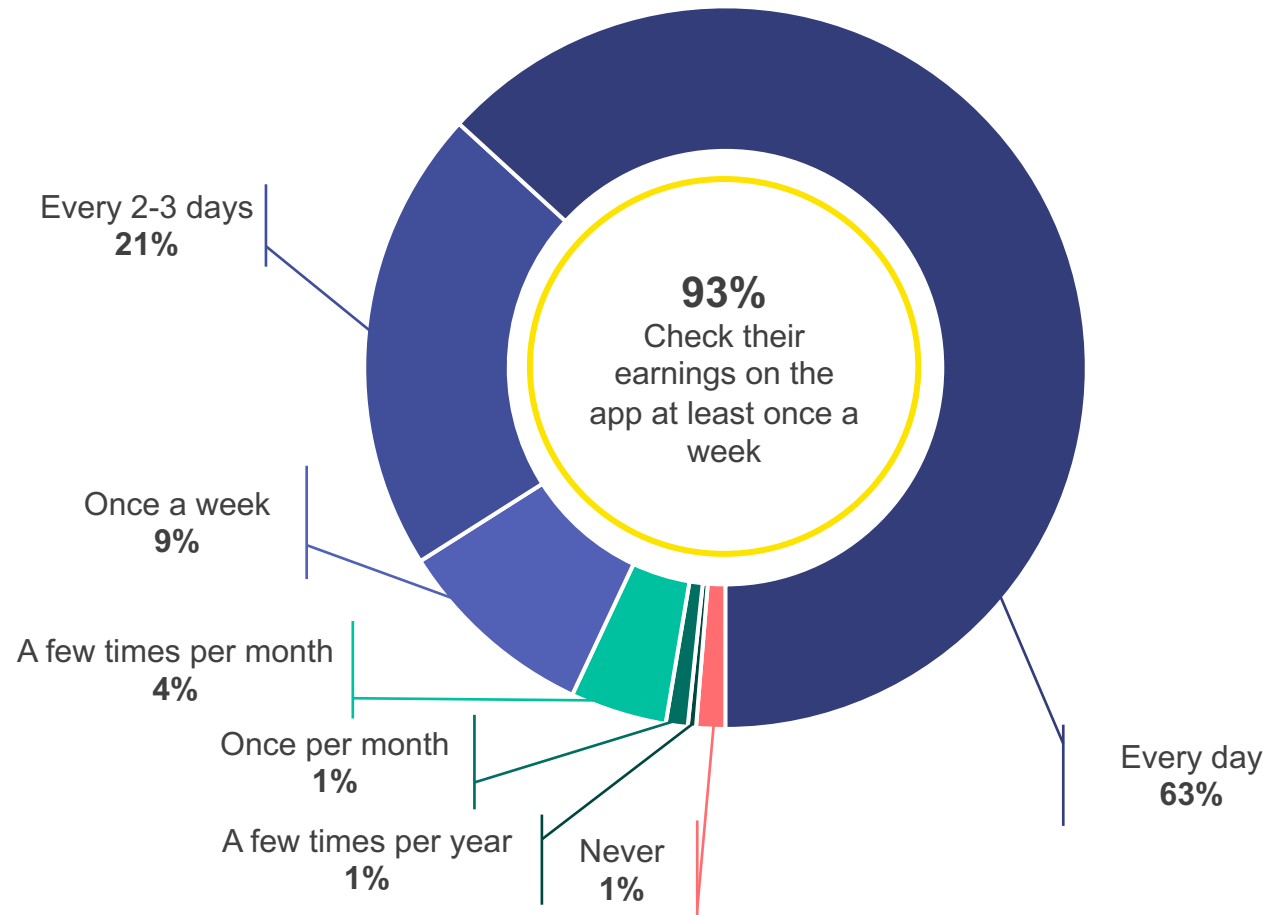


Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: Among users who fall into one of these key target industries: Retail: n=2731, Restaurants/Quick Service Restaurants: n=821, Leisure & Hospitality: n=367, Healthcare/Medical/Social Assistance: n=2456, Manufacturing: n=322

# 6-in-10 users track their earnings daily

*About how often do you check the DailyPay app to track your earnings?*



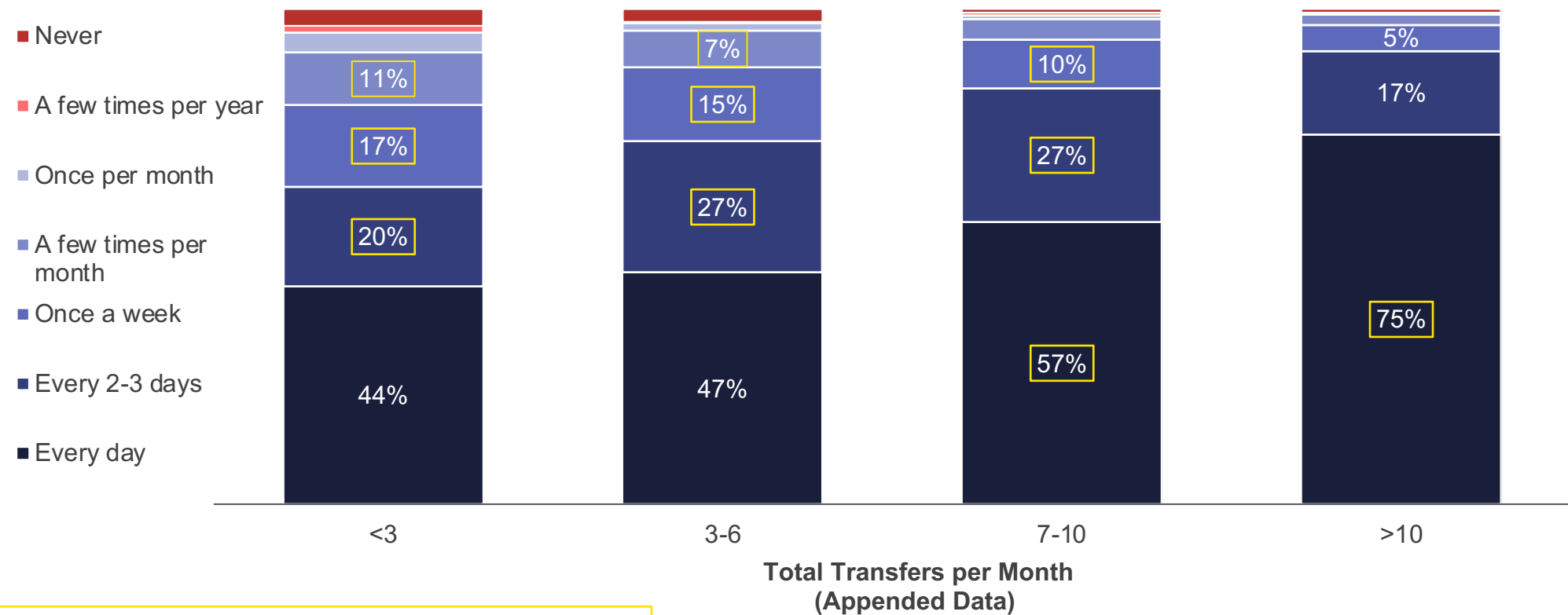
## Significant Differences Found:

- Users who transfer more often also check their earnings more often
- Users under 55 are more likely to track their earnings with DailyPay
- Non-salaried users check their earnings more often
- Restaurant and retail workers check their earnings more often

Base: Total Respondents: n=10,283

# Users who make more than 6 transfers per month are more likely to check the DailyPay app daily

About how often do you check the DailyPay app to track your earnings?



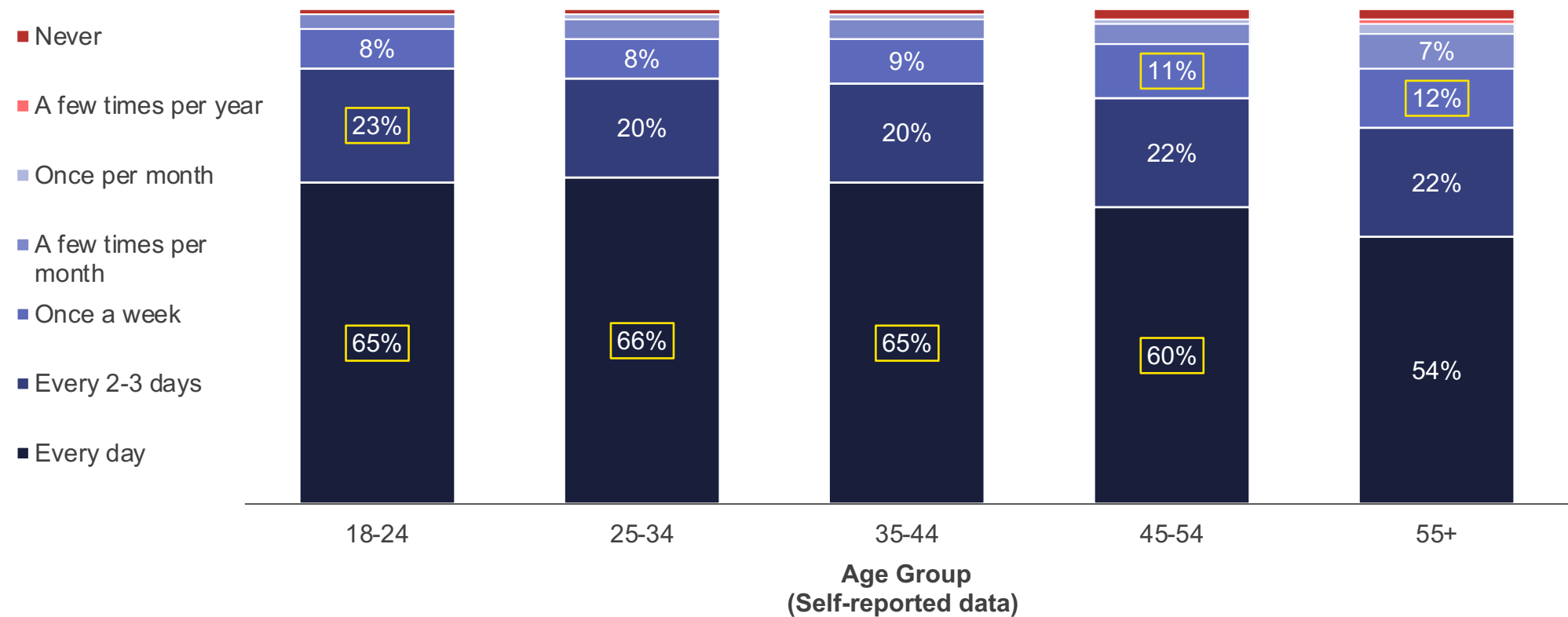
Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Labels not shown for values less than 5%

Base: By Total transfers per month: <3: n=1041, 3-6: n=1920, 7-10: n=1833, >10: n=5489

# Users under 55 are more likely to check their DailyPay app daily to track their earnings

About how often do you check the DailyPay app to track your earnings?



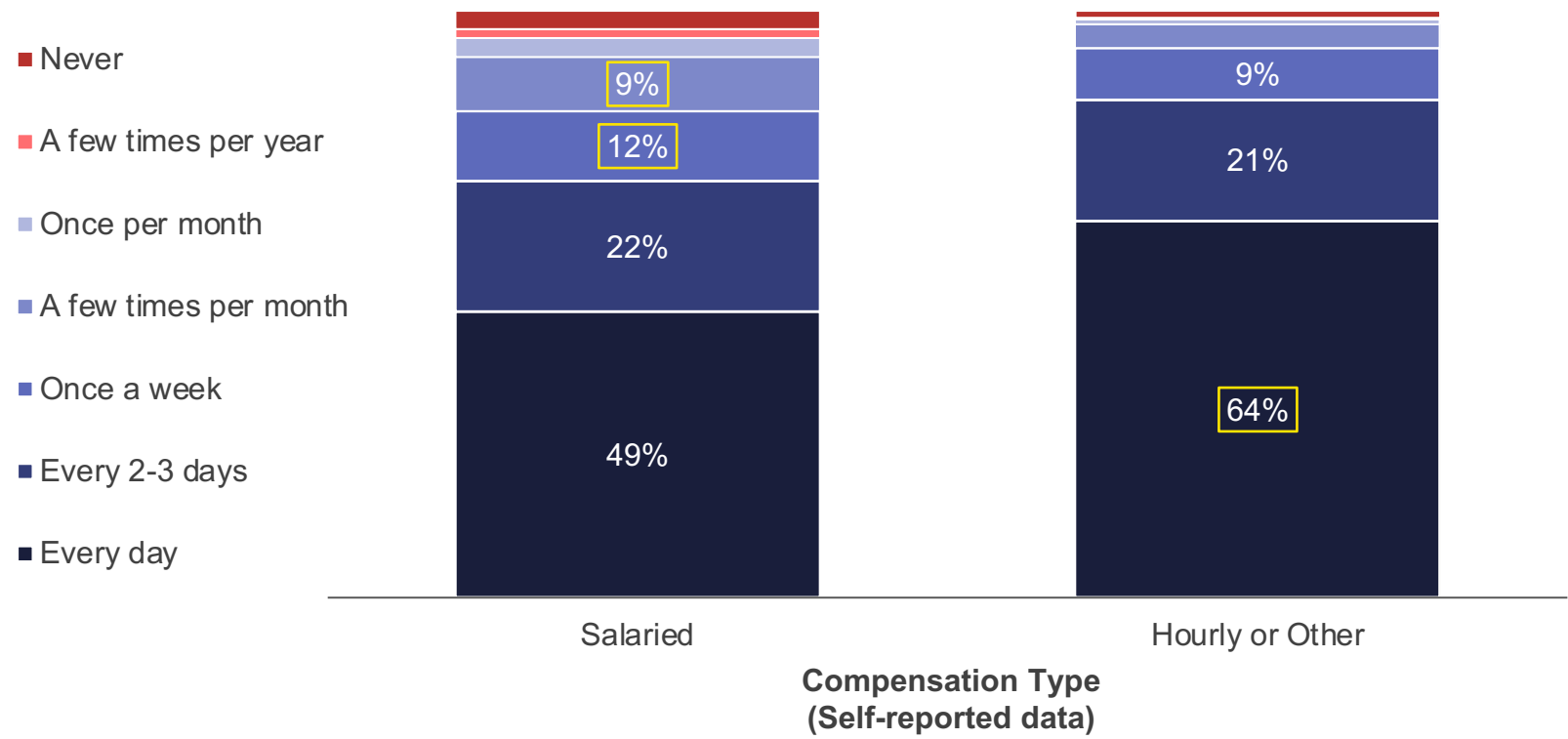
Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Labels not shown for values less than 5%

Base: By Age group: 18-24: n=1485, 25-34: n=3032, 35-44: n=2758, 45-54: n=1751, 55+: n=1115

# Non-salaried users check their DailyPay app to track earnings more often than salaried users

About how often do you check the DailyPay app to track your earnings?



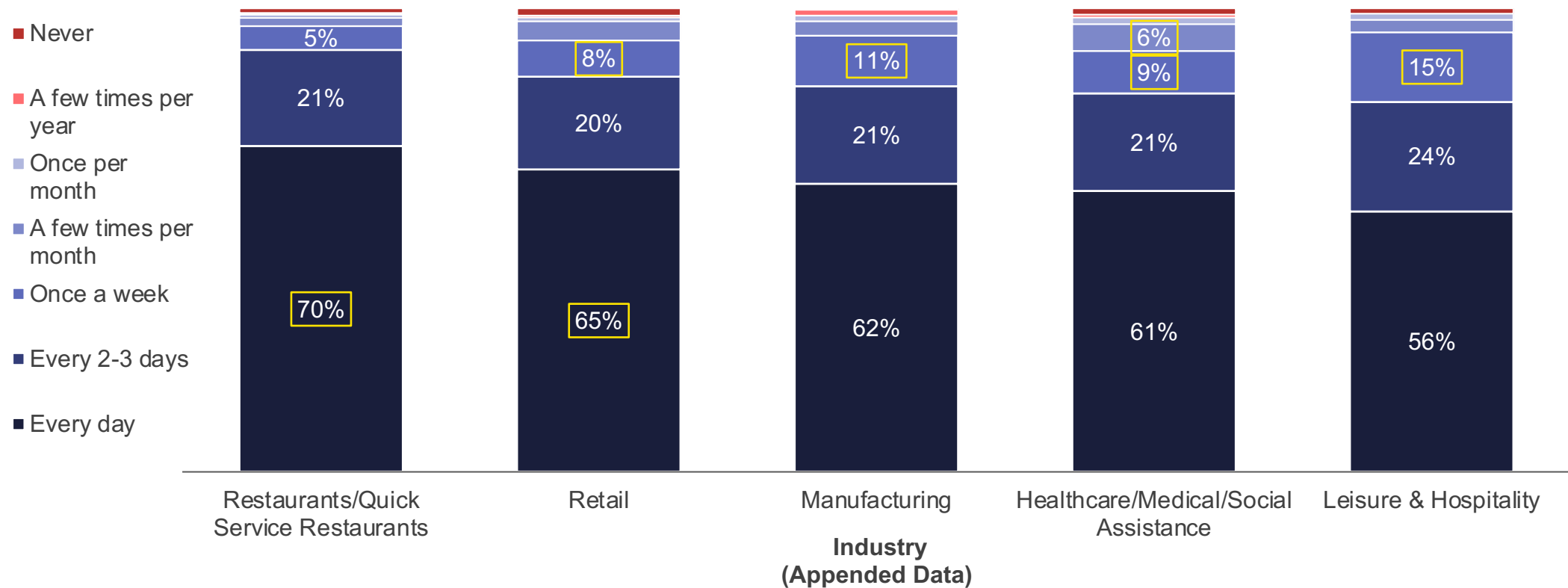
Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Labels not shown for values less than 5%

Base: Among all respondents by compensation type: Salaried: n=609, Hourly or Other: n=9674

# Restaurant and retail workers are more likely than others to check their DailyPay app every day to track their earnings

About how often do you check the DailyPay app to track your earnings?



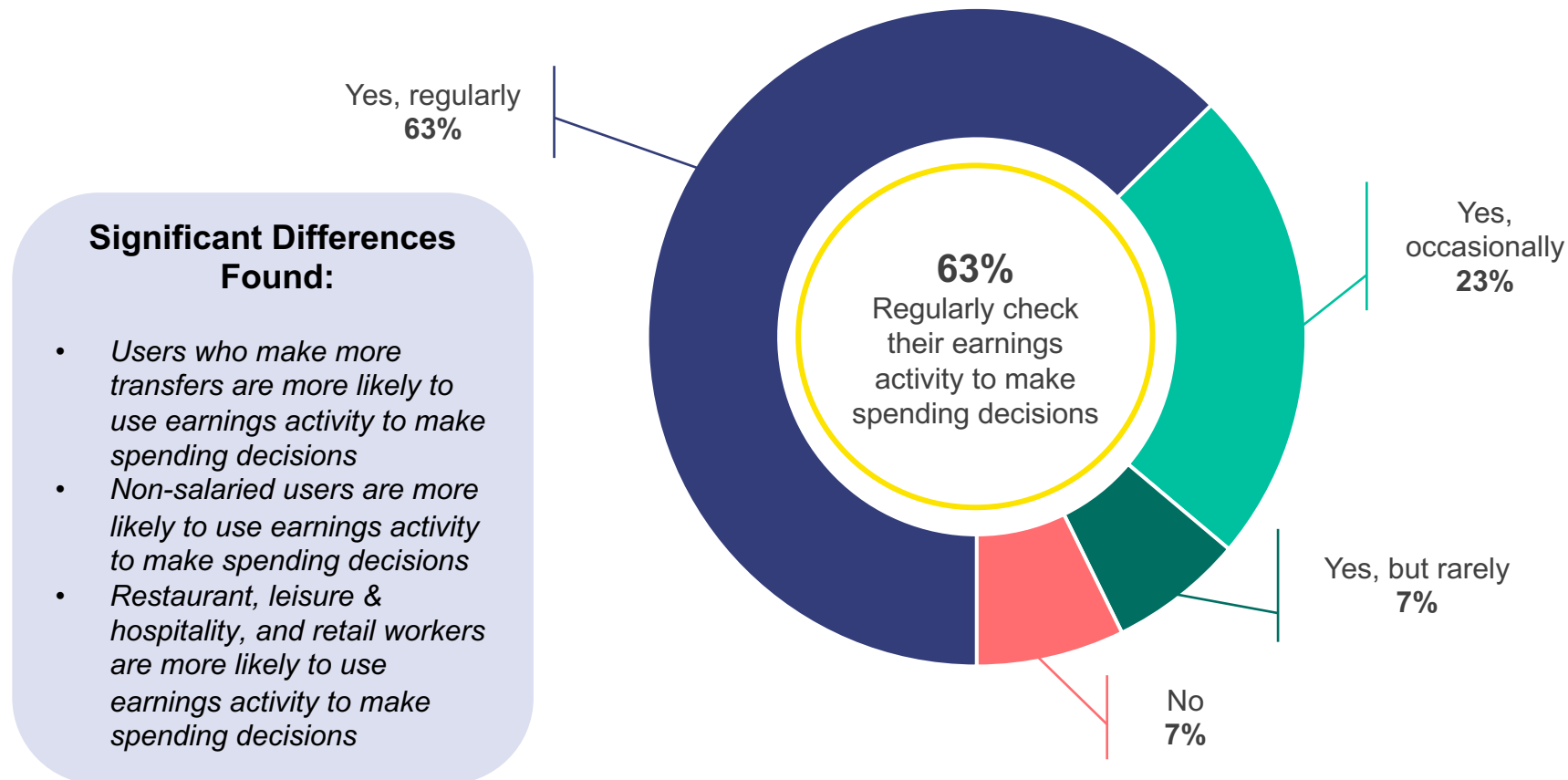
Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Labels not shown for values less than 5%

Base: Among users who fall into one of these key target industries: Retail: n=2731, Restaurants/Quick Service Restaurants: n=821, Leisure & Hospitality: n=367, Healthcare/Medical/Social Assistance: n=2456, Manufacturing: n=322

# 9-in-10 users check their earnings activity to make spending and financial decisions

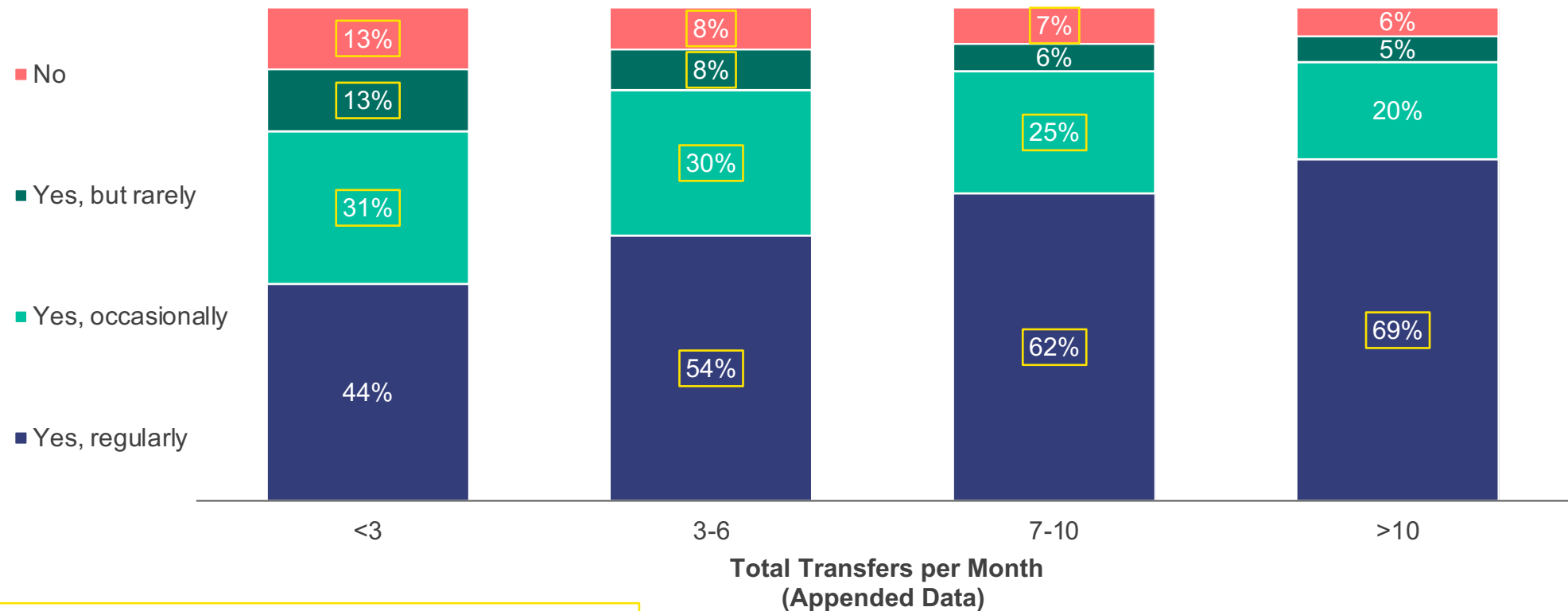
*Do you check your earnings activity in DailyPay to help you make spending and financial decisions?*



Base: Total Respondents: n=10,283

# Users who make more transfers per month are more likely to check their earnings activity to help them make financial decisions

Among respondents who check the DailyPay app at least a few times per year  
*Do you check your earnings activity in DailyPay to help you make spending and financial decisions?*

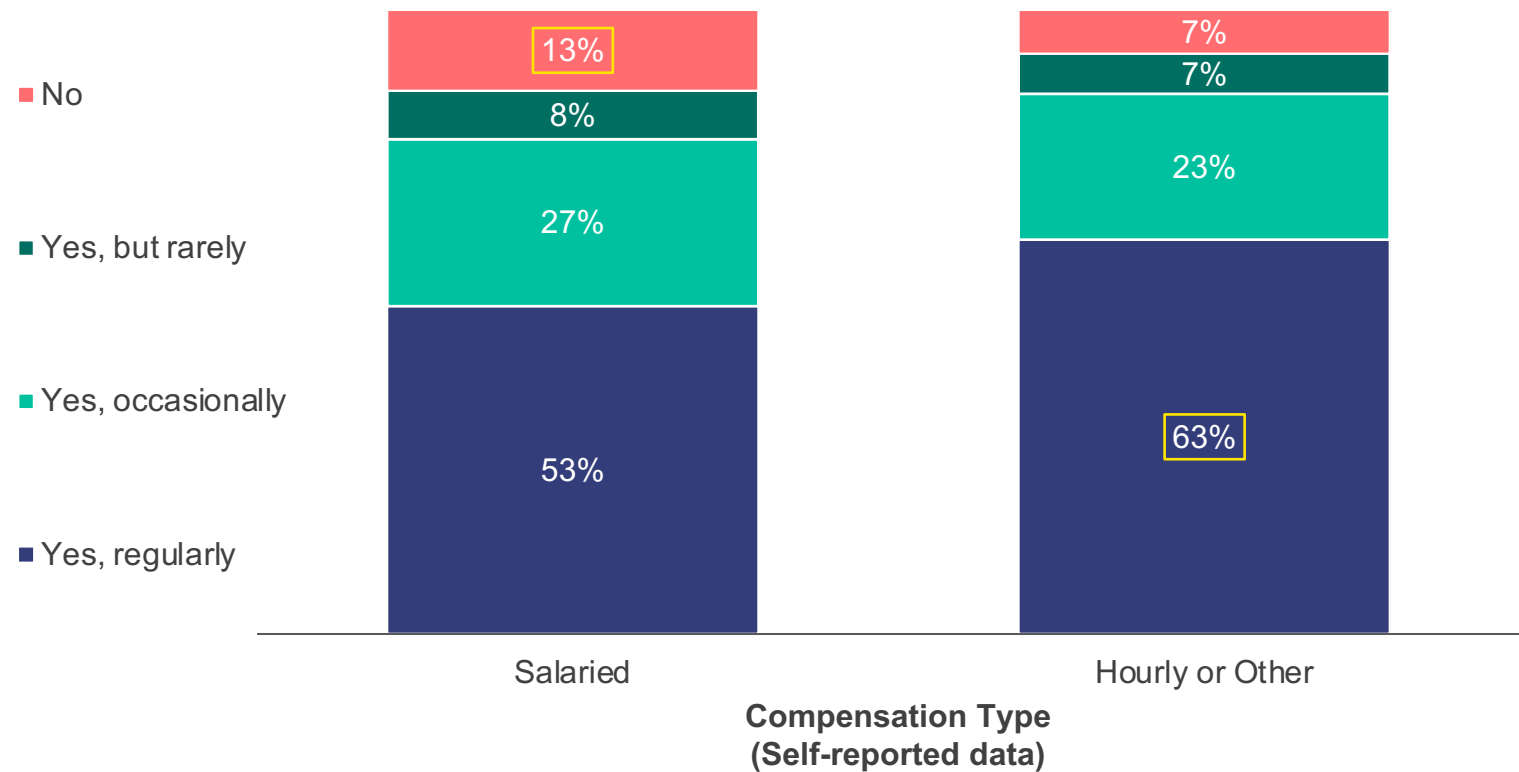


Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: Among respondents who check the DailyPay app at least a few times per year: n=10149; By Total transfers per month: <3: n=1006, 3-6: n=1871, 7-10: n=1820, >10: n=5452

# Non-salaried users use tracked earnings information to make financial decisions more often than salaried users

**AMONG USERS WHO TRACK EARNINGS**  
*Do you check your earnings activity in DailyPay to help you make spending and financial decisions?*

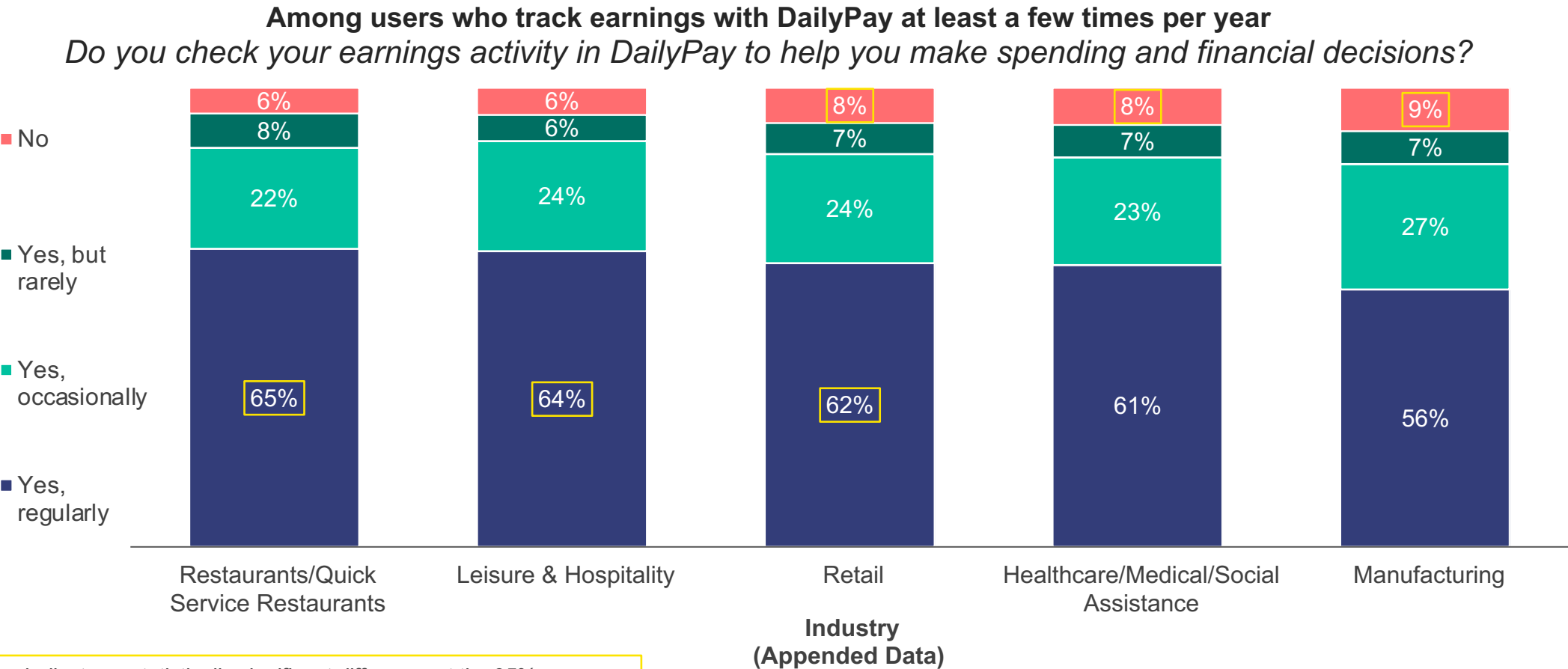


Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Labels not shown for values less than 5%

Base: Among users who check their earnings on DailyPay by compensation type: Salaried: 590, Hourly or Other: n=9559

# Restaurant, leisure & hospitality, and retail workers are more likely to regularly check their earnings activity to make financial decisions

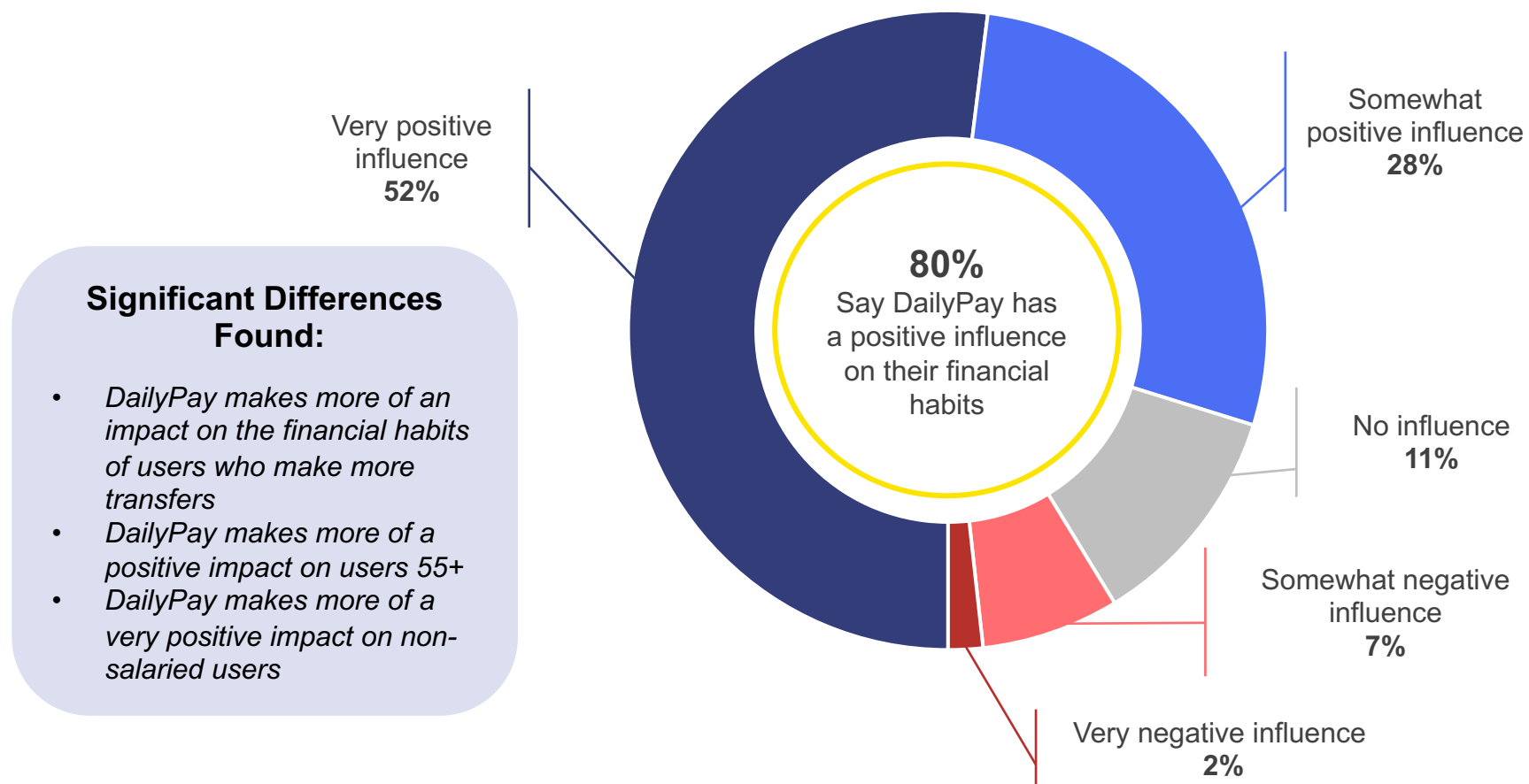


Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: Among users who fall into one of these key target industries AND check their DailyPay app to track earnings: Retail: n=2689, Restaurants/Quick Service Restaurants: n=813, Leisure & Hospitality: n=363, Healthcare/Medical/Social Assistance: n=2422, Manufacturing: n=321

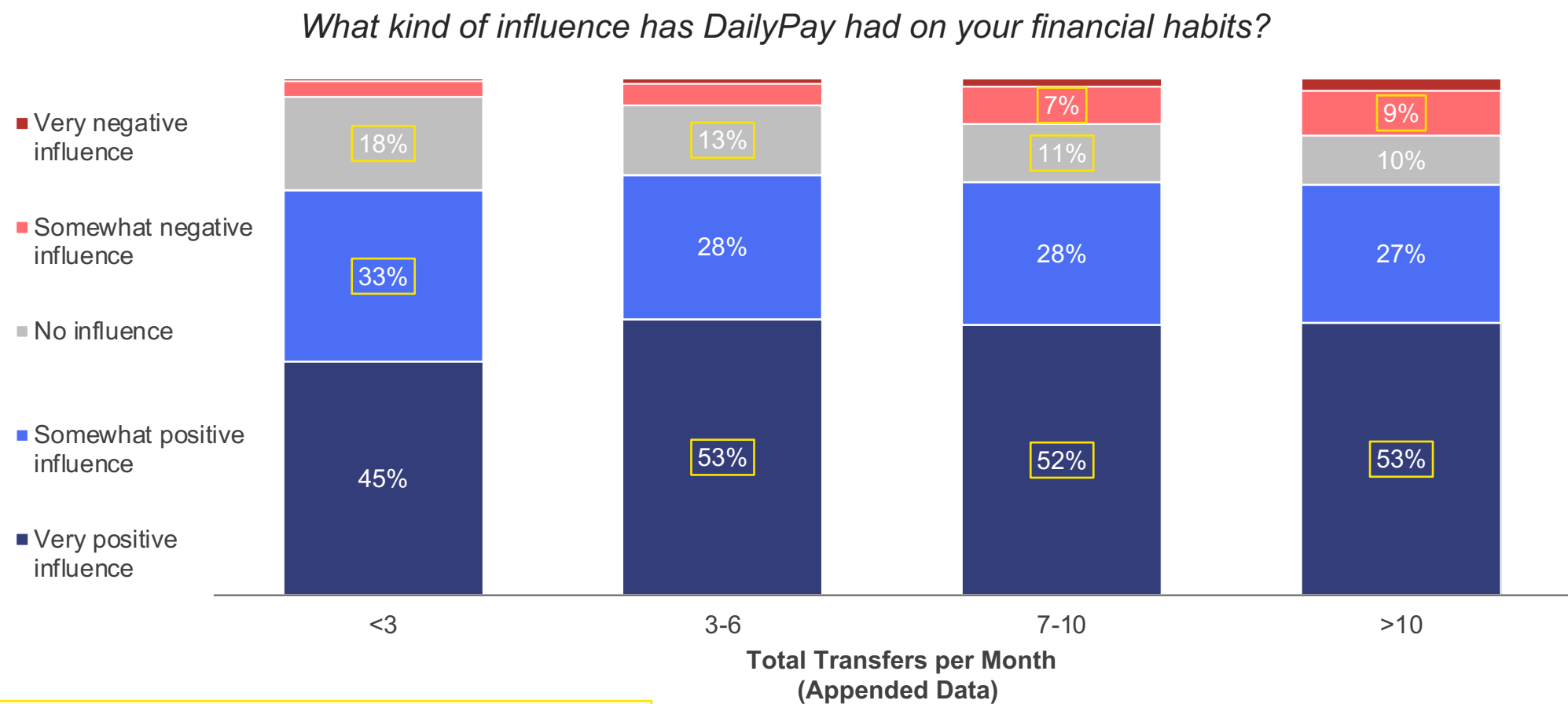
# DailyPay has a positive influence on the financial habits of 8-in-10 users

*What kind of influence has DailyPay had on your financial habits?*



Base: Total Respondents: n=10,283

# Users who make more transfers per month say DailyPay has more of an impact on their financial habits

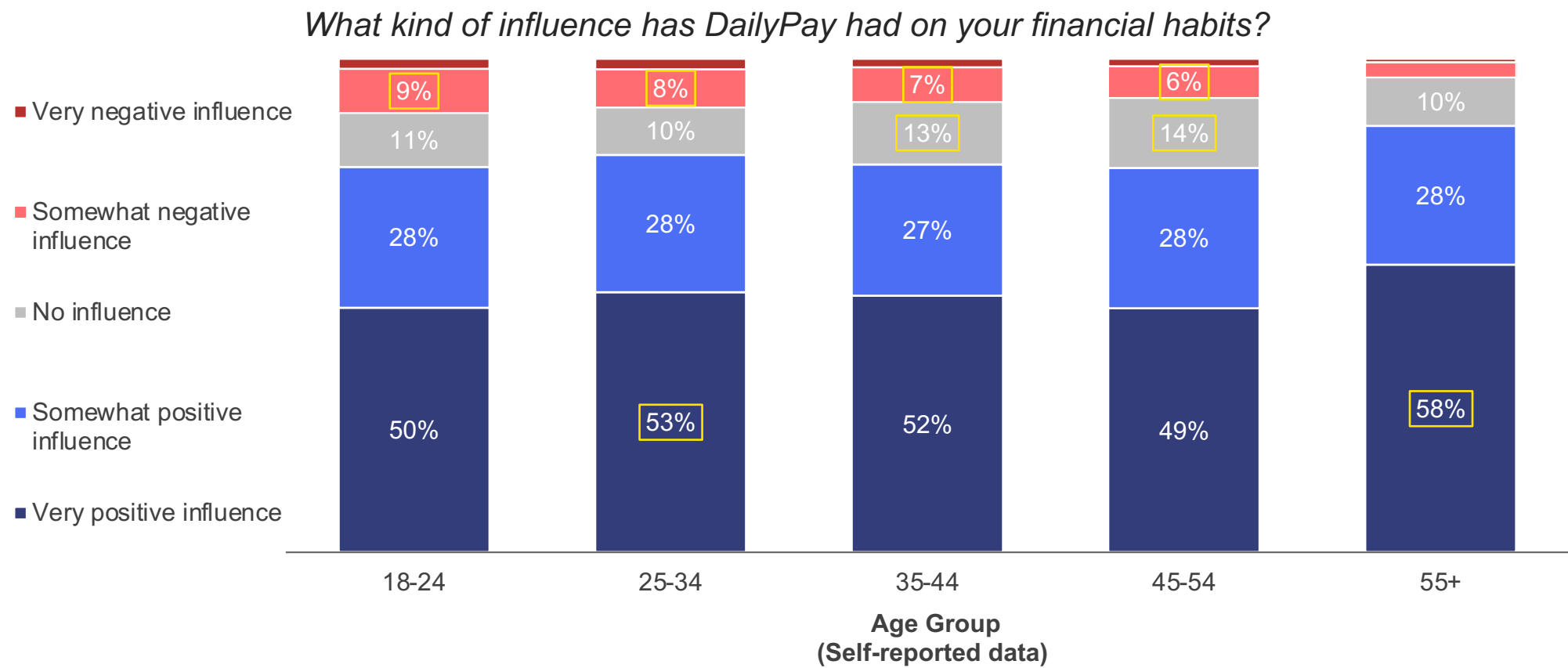


Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Labels not shown for values less than 5%

Base: Among all respondents: n=10283; By Total transfers per month: <3: n=1041, 3-6: n=1920, 7-10: n=1833, >10: n=5489

# Users 55 and older are more likely to report DailyPay has had a very positive influence on their financial habits



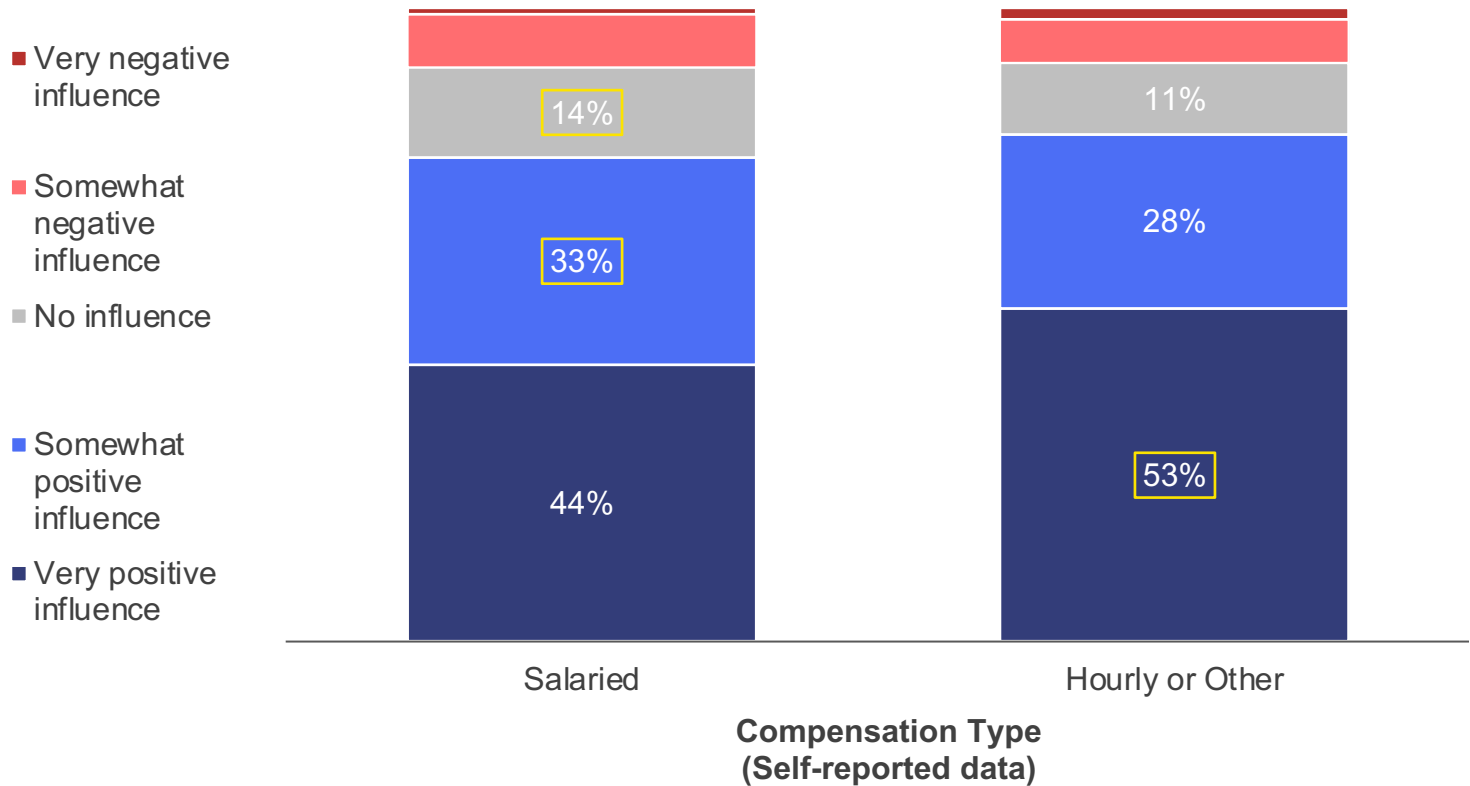
Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Labels not shown for values less than 5%

Base: By Age group: 18-24: n=1485, 25-34: n=3032, 35-44: n=2758, 45-54: n=1751, 55+: n=1115

# Non-salaried users are more likely than salaried users to say DailyPay has had a very positive impact on their financial habits

What kind of influence has DailyPay had on your financial habits?



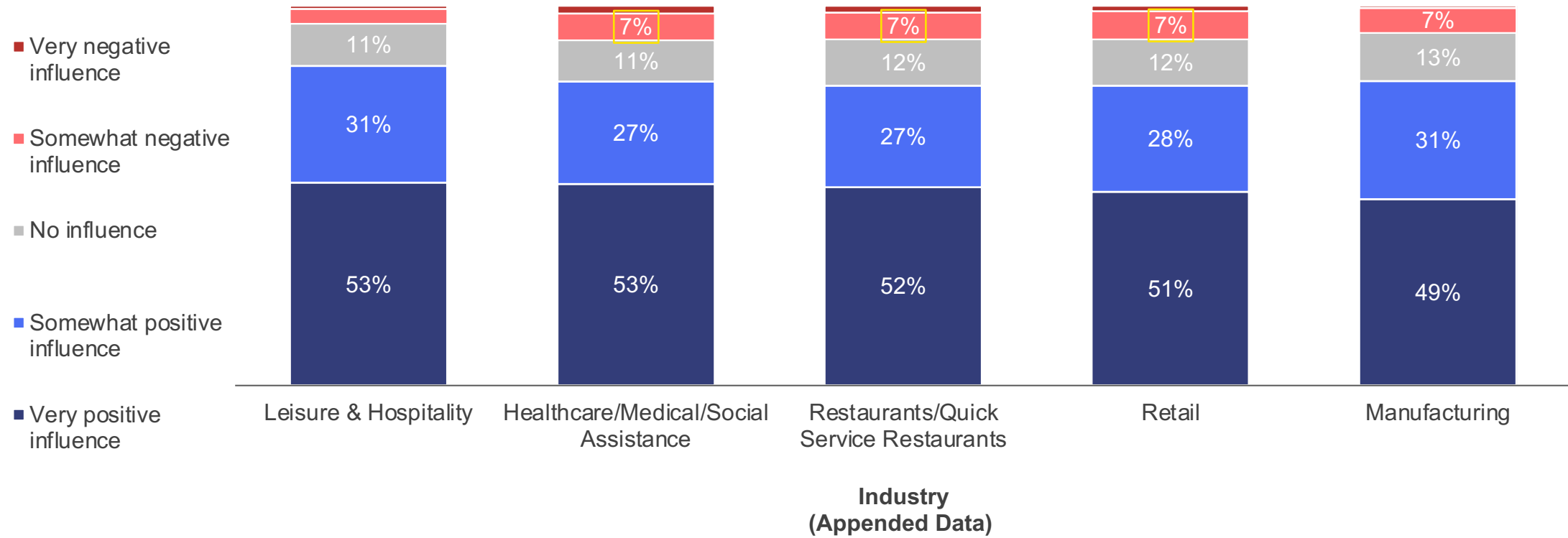
Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Labels not shown for values less than 5%

Base: Among all respondents by compensation type: Salaried: n=609, Hourly or Other: n=9674

# Impact of DailyPay on the financial habits of users is consistent across industries

What kind of influence has DailyPay had on your financial habits?



Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Labels not shown for values less than 5%

Base: Among users who fall into one of these key target industries AND check their DailyPay app to track earnings: Retail: n=2689, Restaurants/Quick Service Restaurants: n=813, Leisure & Hospitality: n=363, Healthcare/Medical/Social Assistance: n=2422, Manufacturing: n=321

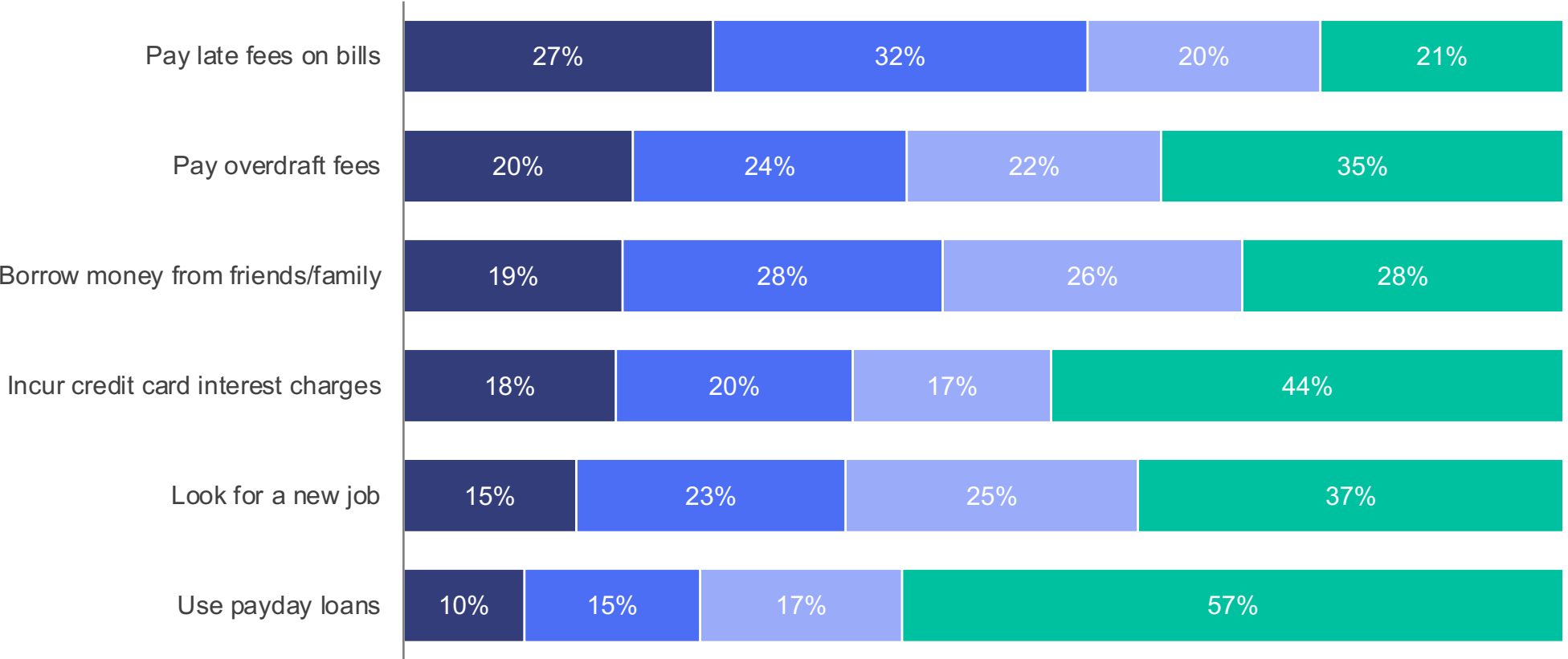
# Before using DailyPay, nearly a third of users were regularly paying late fees on bills and 2-in-10 were regularly paying overdraft fees

Before you had DailyPay, how often would you say that you did the following things?

■ Regularly ■ Occasionally ■ Rarely ■ Never

**Significant Differences Found by:**

- Age
- Compensation type
- Industry

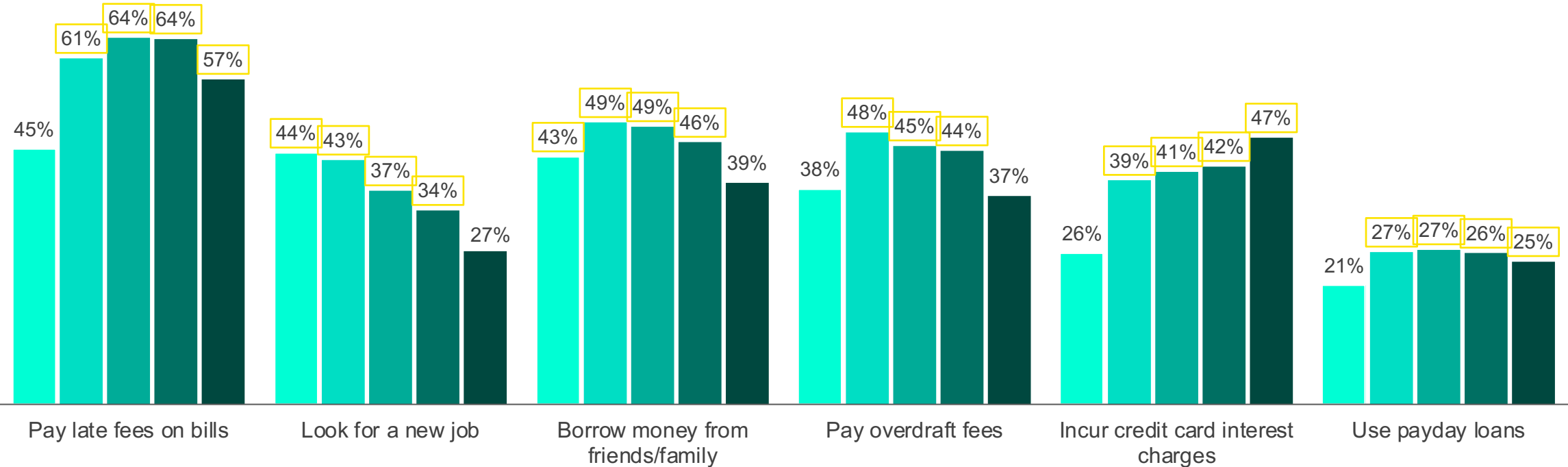


Base: Total Respondents: n=10,283

# Employee behavior before using DailyPay varied by age group

Before you had DailyPay, how often would you say that you did the following things?  
% WHO DID EACH ACTIVITY REGULARLY OR OCCASIONALLY

Age Group (Self-reported data)    18-24    25-34    35-44    45-54    55+

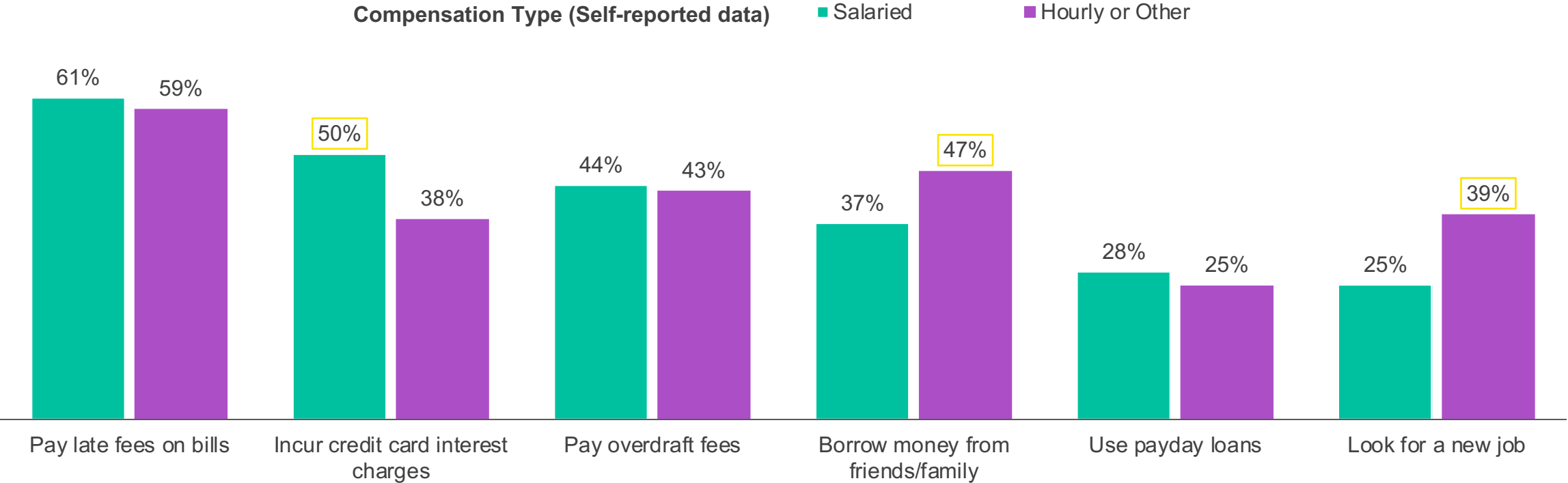


Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: By Age group: 18-24: n=1485, 25-34: n=3032, 35-44: n=2758, 45-54: n=1751, 55+: n=1115

# Before having DailyPay, salaried employees were more likely to incur credit card interest charges while non-salaried employees were more likely to borrow money from family/friends and/or look for new jobs

Before you had DailyPay, how often would you say that you did the following things?  
% WHO DID EACH ACTIVITY REGULARLY OR OCCASIONALLY



Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

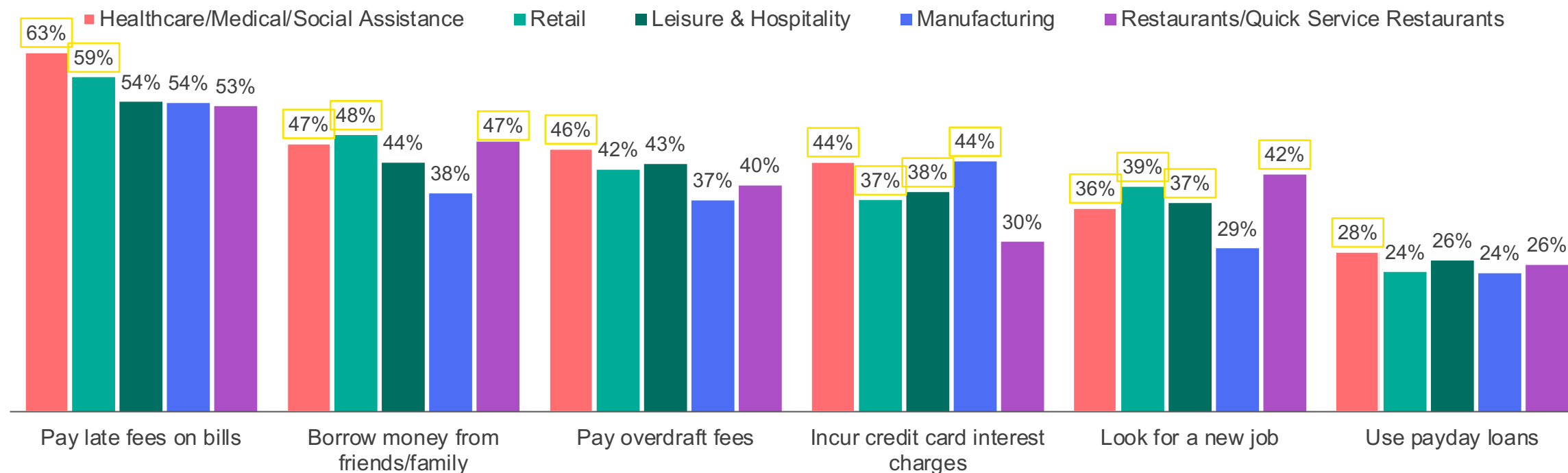
Base: Among all respondents by compensation type: Salaried: n=609, Hourly or Other: n=9674

# Employee behavior before using DailyPay was somewhat varied by industry

*Before you had DailyPay, how often would you say that you did the following things?*

**% WHO DID EACH ACTIVITY REGULARLY OR OCCASIONALLY**

**Industry (Appended Data)**

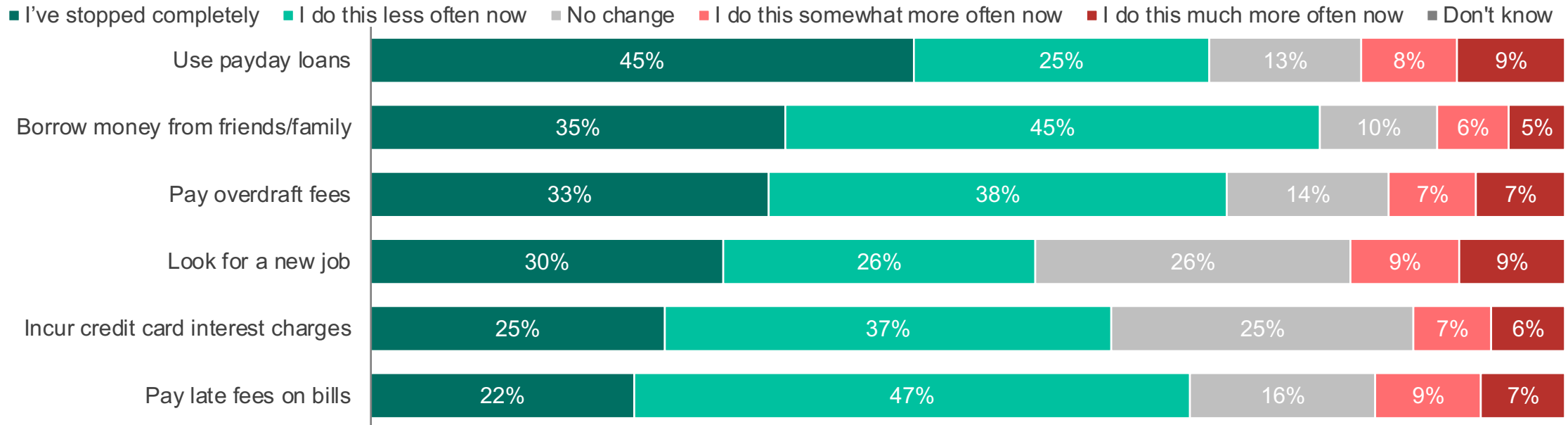


*Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.*

Base: Among users who fall into one of these key target industries AND check their DailyPay app to track earnings: Retail: n=2689, Restaurants/Quick Service Restaurants: n=813, Leisure & Hospitality: n=363, Healthcare/Medical/Social Assistance: n=2422, Manufacturing: n=321

## 4-in-10 DailyPay users have decreased their use of payday loans since becoming users; 3-in-10 have stopped all together

Among those who previously regularly or occasionally did the following before using DailyPay  
Since you started using DailyPay, how, if at all, has the frequency that you take the following actions changed?



**Significant Differences Found by:**

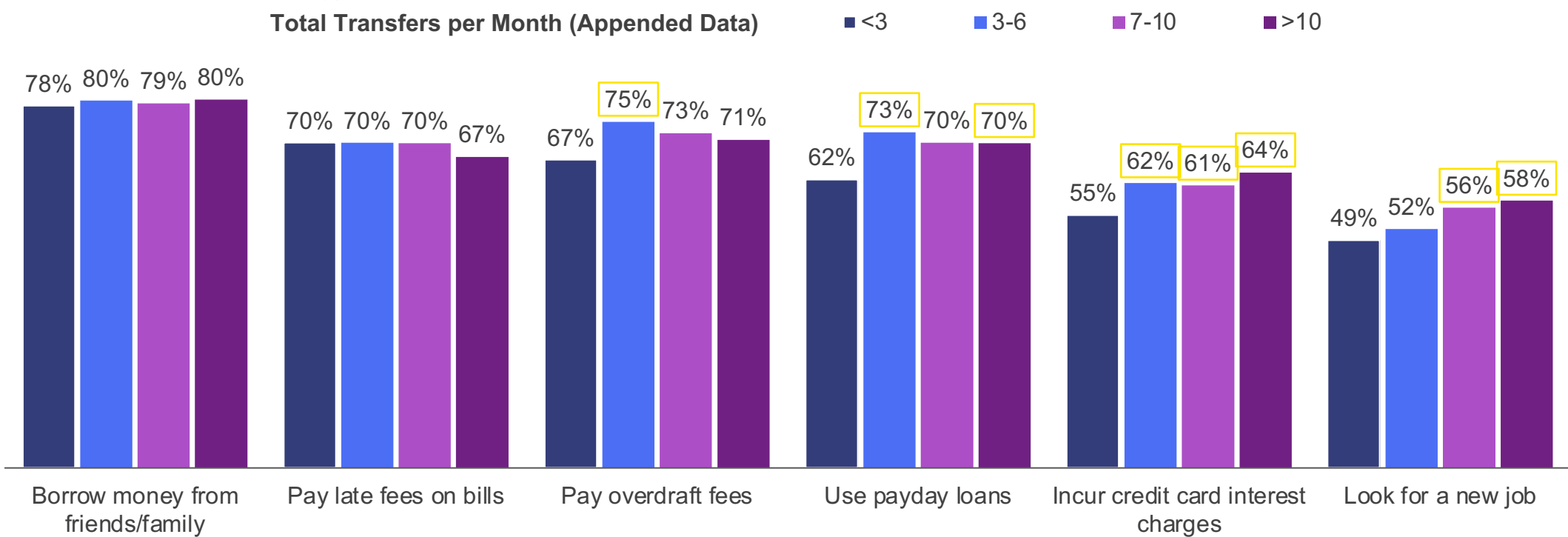
- Transfers per month
- Age
- Compensation type
- Target industry

Base: Among those who previously did the activities in each line item before using DailyPay; base varies by line item

# The number of transfers per month a user makes is linked to personal finance and behavior outcomes

Among respondents who did each activity regularly or occasionally before using DailyPay  
*Since you started using DailyPay, how, if at all, has the frequency that you take the following actions changed?*

**% WHO DO THIS LESS OFTEN NOW OR HAVE STOPPED COMPLETELY**

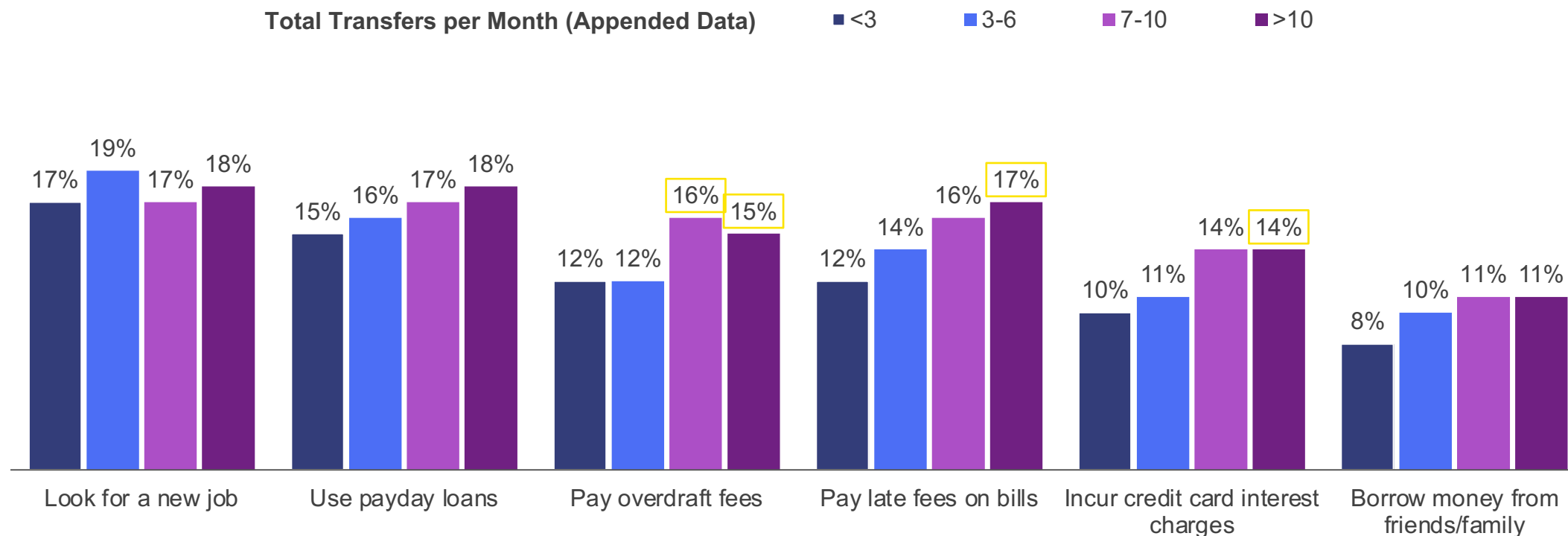


Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: Among respondents who did each activity regularly or occasionally before using DailyPay: Bases vary by activity

# Users who make more transfers per month are more likely to pay overdraft fees and incur credit card interest charges since becoming users

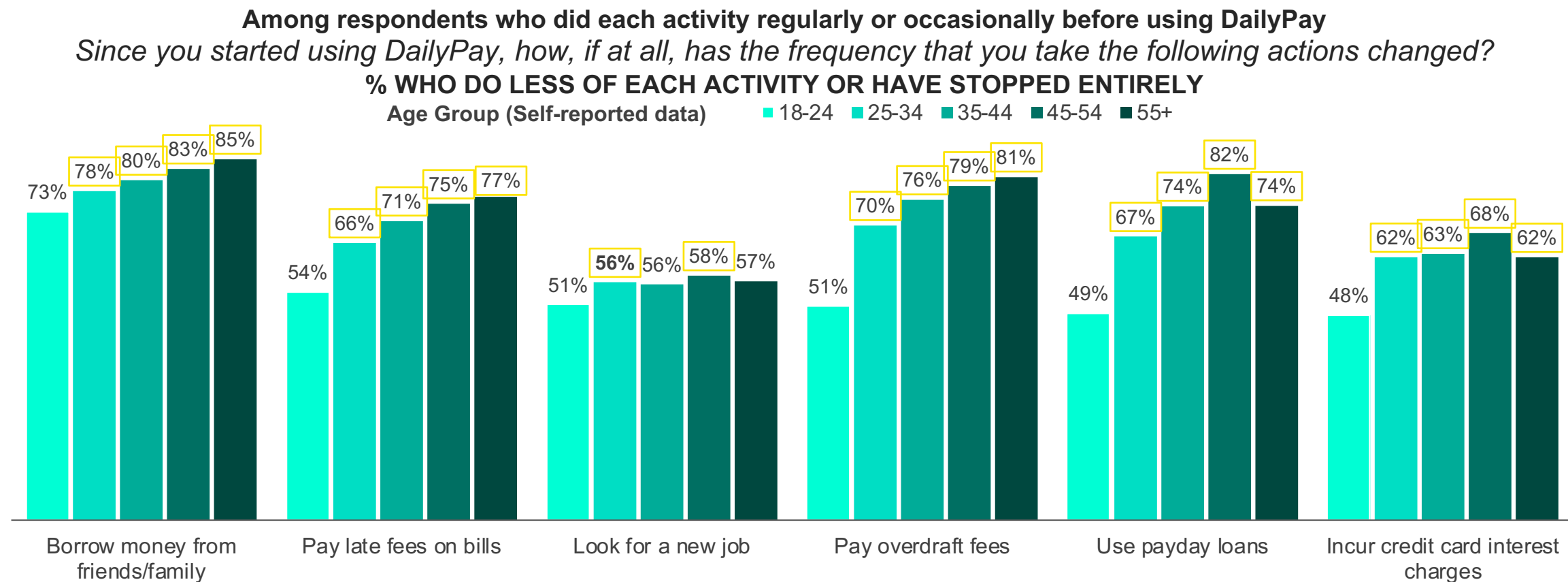
Among respondents who did each activity regularly or occasionally before using DailyPay  
*Since you started using DailyPay, how, if at all, has the frequency that you take the following actions changed?*  
**% WHO DO THIS MORE OFTEN NOW**



Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: Among respondents who did each activity regularly or occasionally before using DailyPay: Bases vary by activity

# Since starting using DailyPay, older users are more likely to have decreased engagement with many of the following activities



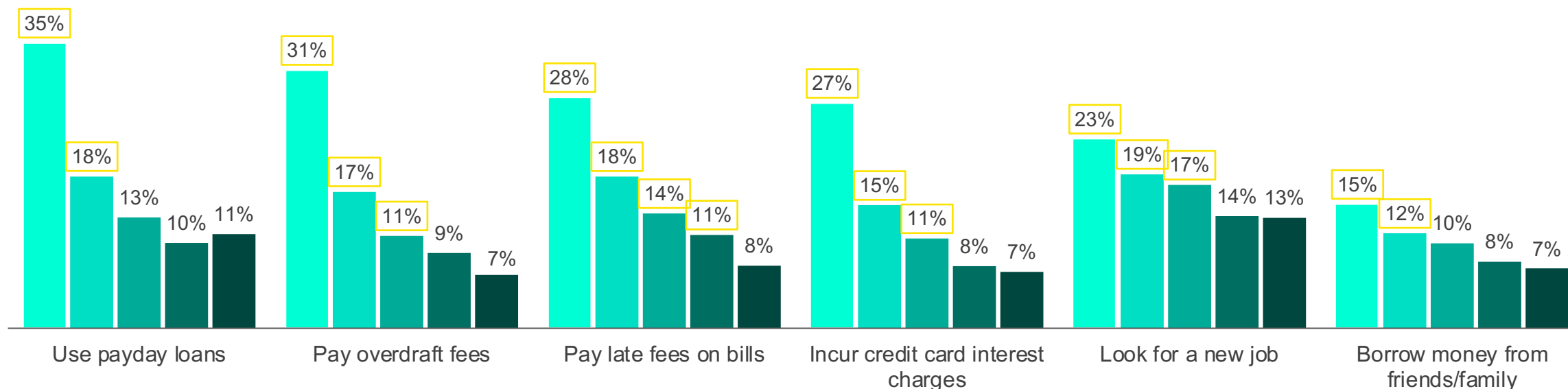
Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: Among respondents who did each activity regularly or occasionally before using DailyPay: Bases vary by activity

# Since starting using DailyPay, younger users are more likely to have increased engagement with all of the following activities

Among respondents who did each activity regularly or occasionally before using DailyPay  
*Since you started using DailyPay, how, if at all, has the frequency that you take the following actions changed?*  
**% WHO DO EACH ACTIVITY MORE OFTEN NOW**

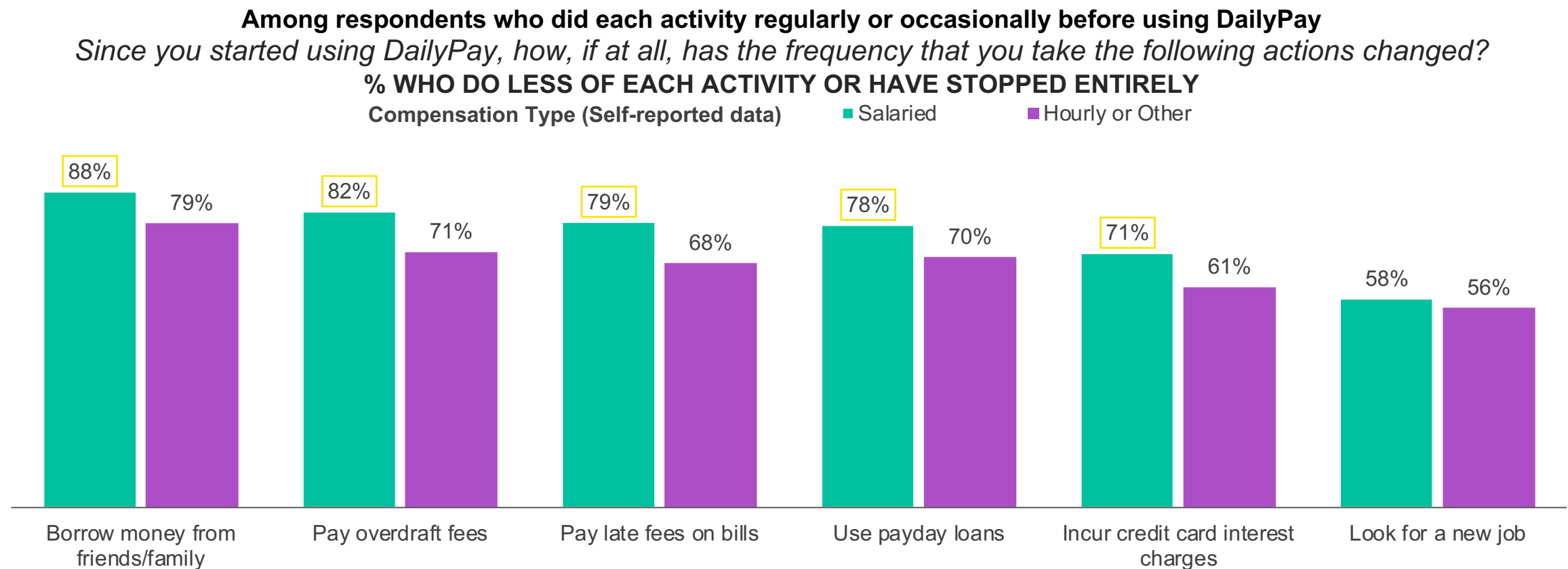
Age Group (Self-reported data)    18-24   25-34   35-44   45-54   55+



Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: Among respondents who did each activity regularly or occasionally before using DailyPay: Bases vary by activity

# Salaried users are more likely than non-salaried users to have reduced or stopped many of the following activities since starting to use DailyPay



Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

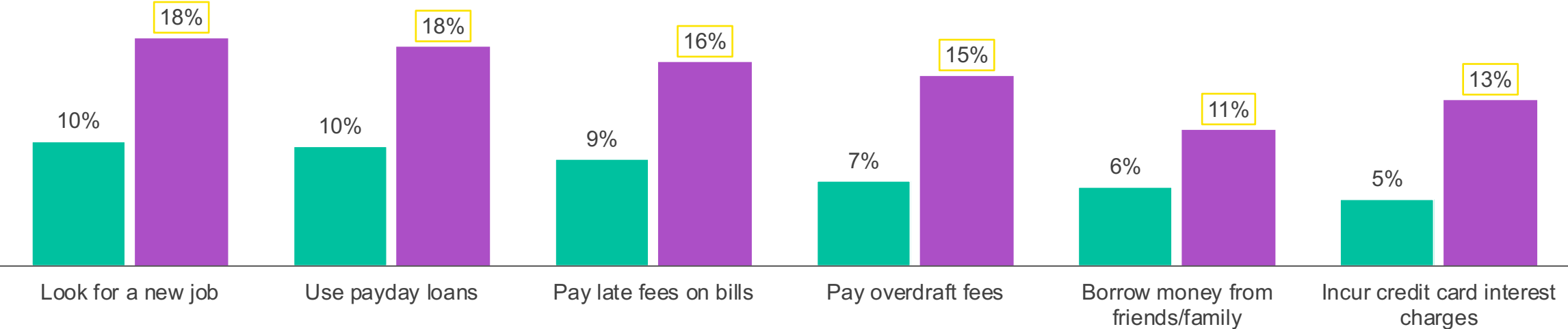
Base: Among respondents who did each activity regularly or occasionally before using DailyPay: Bases vary by activity

# Non-salaried users are more likely to report an increase in each of the following activities since starting to use DailyPay

Among respondents who did each activity regularly or occasionally before using DailyPay  
*Since you started using DailyPay, how, if at all, has the frequency that you take the following actions changed?*

**% WHO DO MORE OF EACH ACTIVITY NOW**

Compensation Type (Self-reported data)    ■ Salaried    ■ Hourly or Other

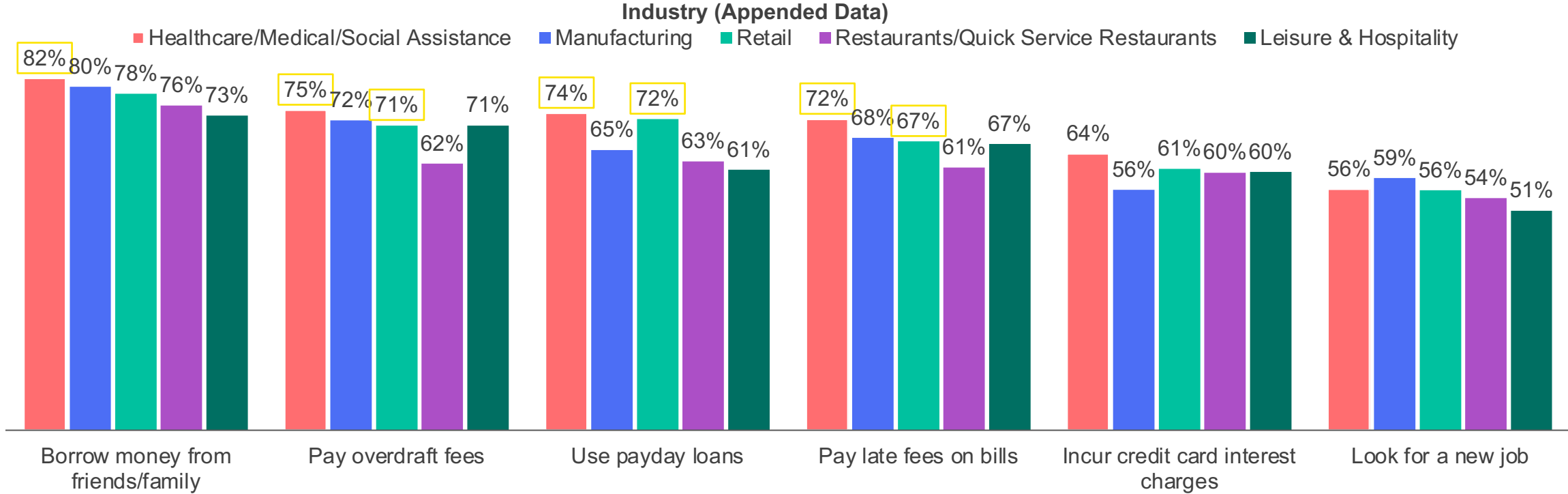


Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: Among respondents who did each activity regularly or occasionally before using DailyPay: Bases vary by activity

# Healthcare and retail workers are more likely to report reduction/cessation of many of the following activities since becoming DailyPay users

Among respondents who did each activity regularly or occasionally before using DailyPay  
*Since you started using DailyPay, how, if at all, has the frequency that you take the following actions changed?*  
**% WHO DO LESS OF EACH ACTIVITY OR HAVE STOPPED**

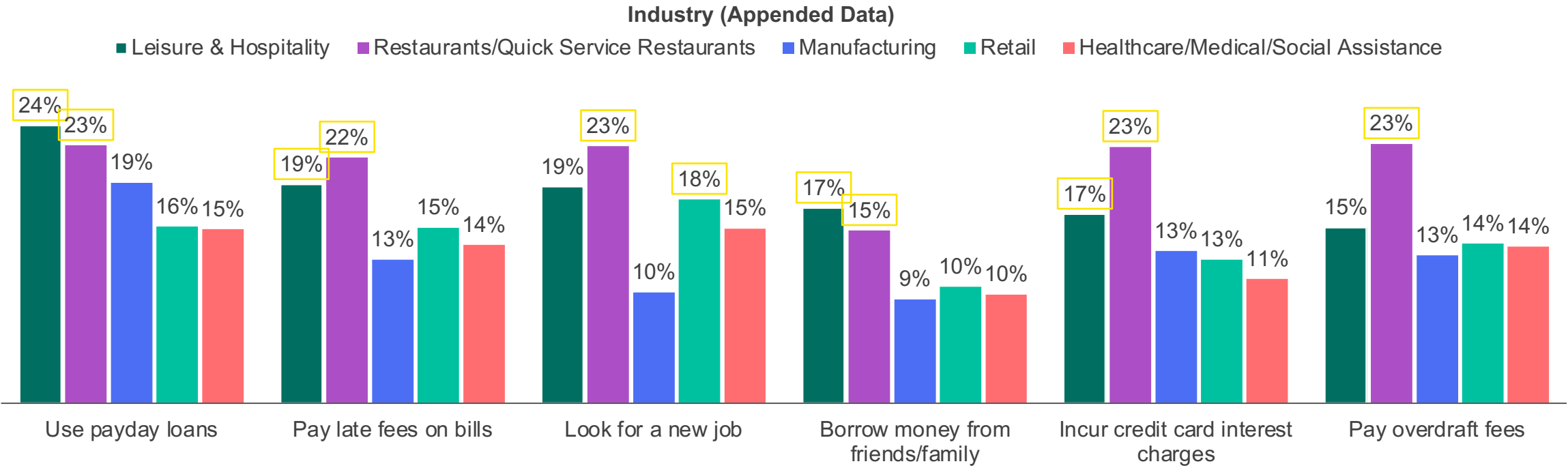


Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: Among respondents who did each activity regularly or occasionally before using DailyPay: Bases vary by activity

# Restaurant and leisure/hospitality workers are more likely to increase engagement with the following activities since becoming DailyPay users

Among respondents who did each activity regularly or occasionally before using DailyPay  
*Since you started using DailyPay, how, if at all, has the frequency that you take the following actions changed?*  
**% WHO DO MORE OF EACH ACTIVITY NOW**



Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

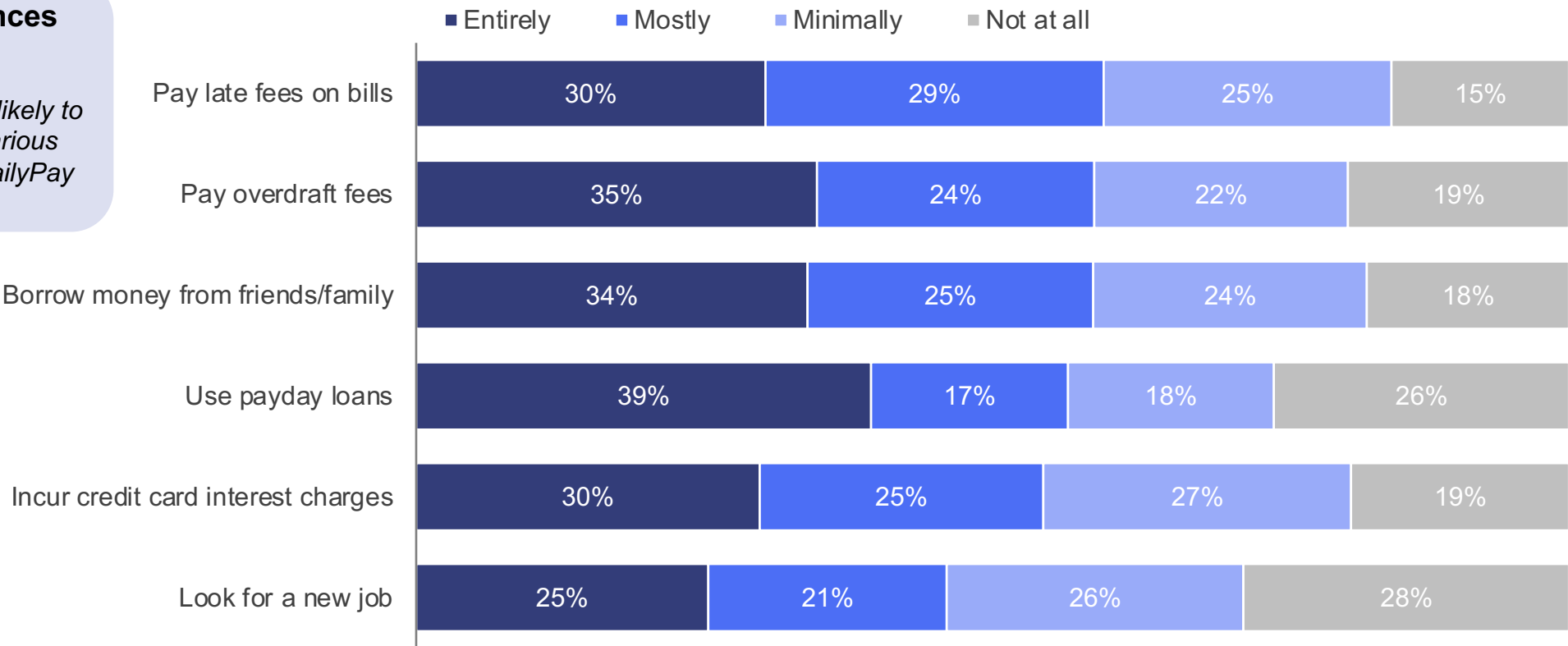
Base: Among respondents who did each activity regularly or occasionally before using DailyPay: Bases vary by activity

# Over half of users who pay less late fees on bills since becoming DailyPay users attribute most or all of that improvement to the app

Among users who engage in less of each item listed since starting to use DailyPay  
*You said you do the following things less now that you started using DailyPay. To what extent is that due to using DailyPay?*

**Significant Differences Found:**

- *Newer users are more likely to attribute reduction in various behaviors entirely to DailyPay*



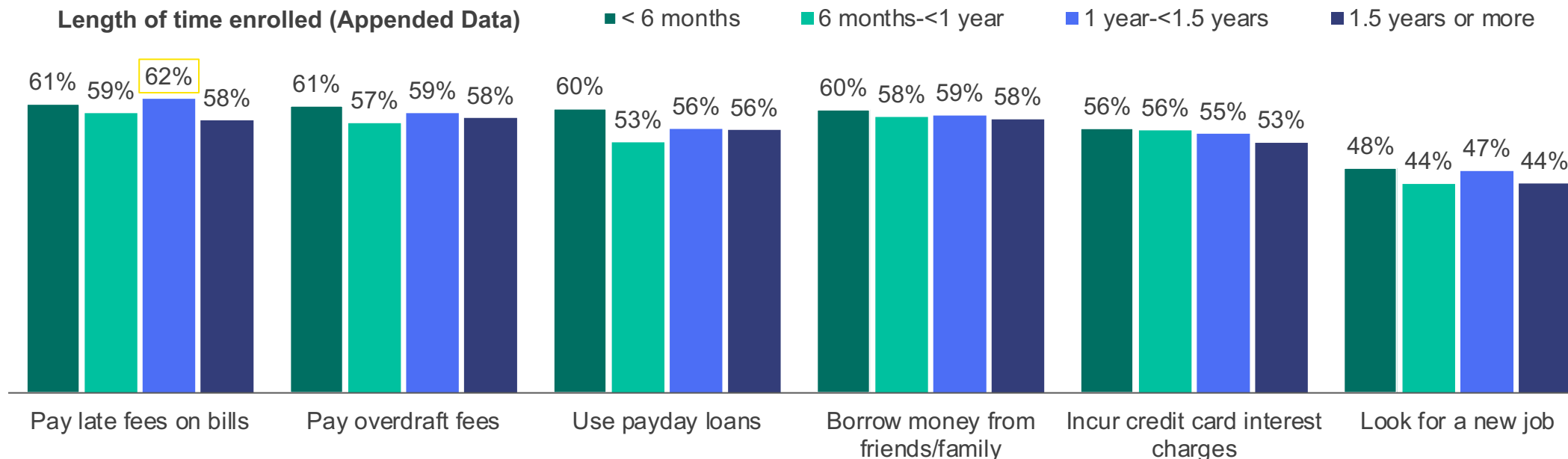
Base: Among those who engage in less of the items listed; Base varies by line item

# Users of all tenures are equally likely to agree that reduction of the following behaviors is due to using DailyPay

Among users who self-reported reduction in each activity

*You said you do the following things less now that you started using DailyPay. To what extent is that due to using DailyPay?*

**% WHO ATTRIBUTE THIS REDUCTION ENTIRELY OR MOSTLY TO USING DAILYPAY**



Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

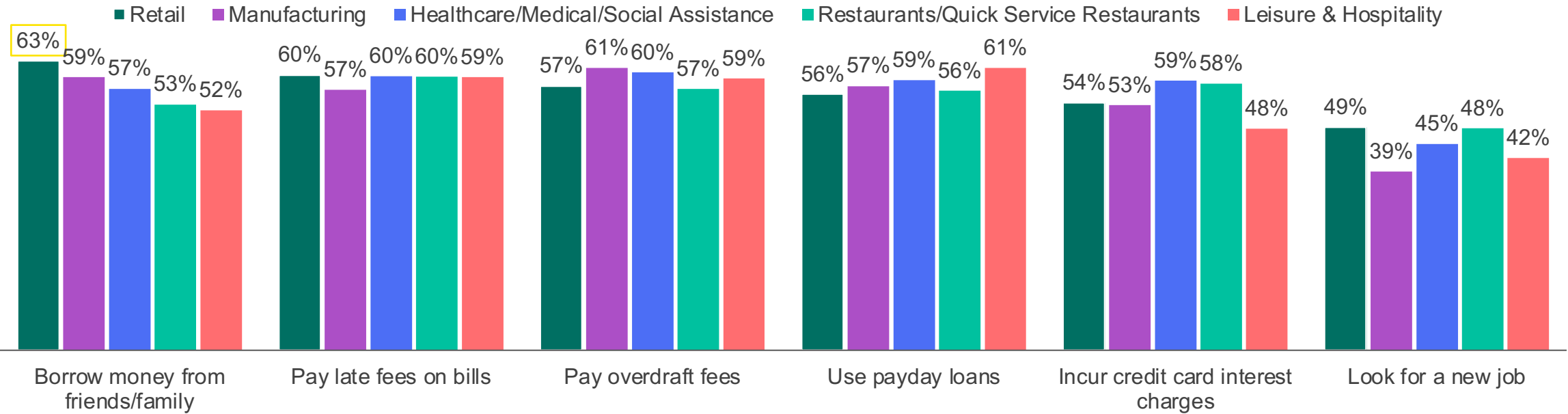
Base: Among users who self-reported reduction in each activity: Borrow money from family and friends: n=3730, Pay late fees on bills: n=4036, Use payday loans: n=1776, Pay overdraft fees: n=3104, Incur credit card interest charges: n=2364, Look for a new job: n=2103

# DailyPay is equally impactful to reducing the following behaviors across industries

Among users who self-reported reduction in each activity  
*You said you do the following things less now that you started using DailyPay. To what extent is that due to using DailyPay?*

**% WHO ATTRIBUTE THIS REDUCTION ENTIRELY OR MOSTLY TO USING DAILYPAY**

Industry (Appended Data)



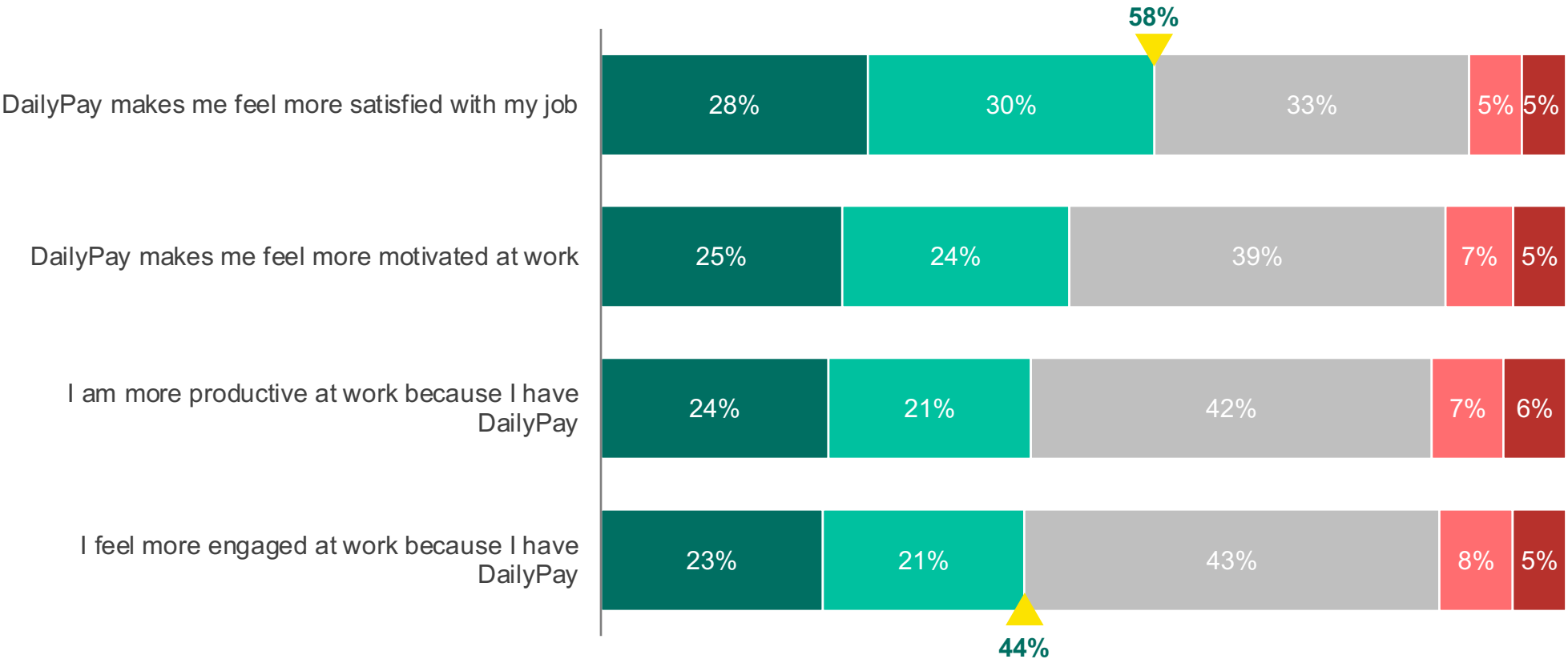
Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: Among respondents who did each activity regularly or occasionally before using DailyPay: Bases vary by activity

# Nearly 6-in-10 users are more satisfied with their job due to DailyPay, nearly half are more motivated, and 4-in-10 are more productive

To what extent do you agree or disagree with the following statements?

Strongly Agree   Agree   Neither Agree nor Disagree   Disagree   Strongly Disagree

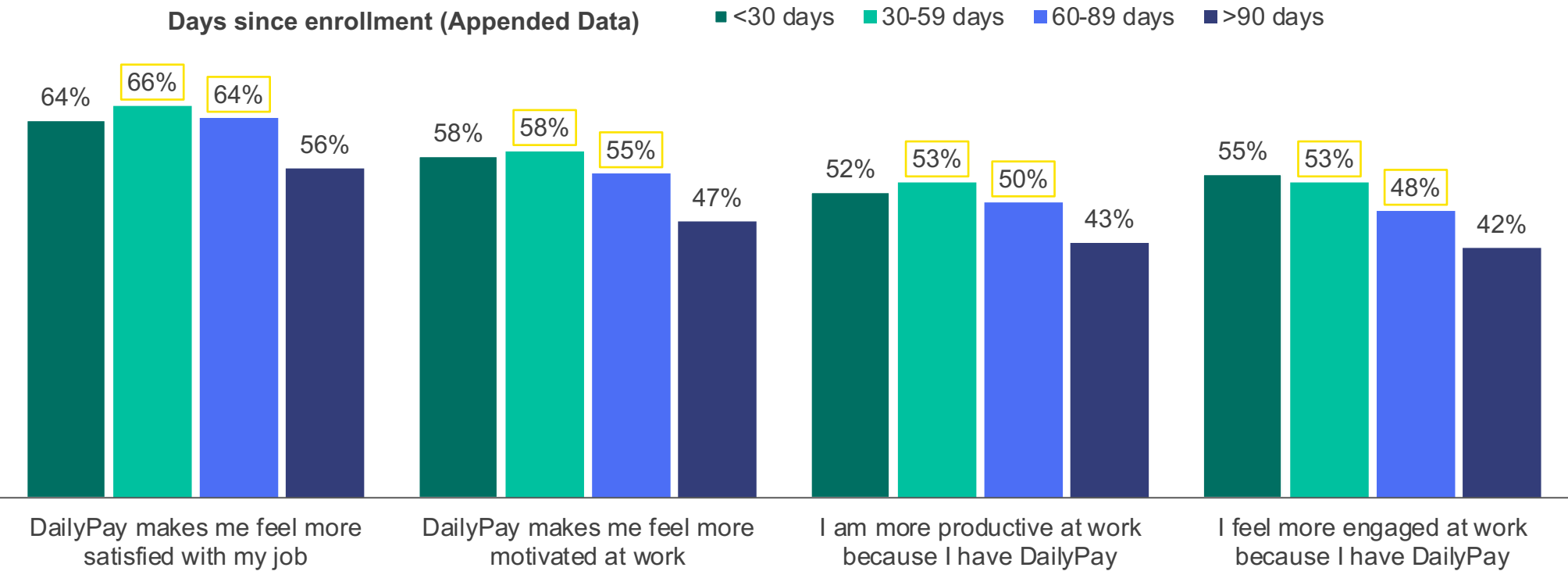


- Significant Differences Found by:**
- Days since enrollment
  - Length of time enrolled
  - Transfers per month
  - Age
  - Compensation type
  - Target industry

Base: Total Respondents: n=10,283

# Users enrolled for less than 90 days are more likely to agree that DailyPay improves their job satisfaction, motivation, productivity, and engagement

To what extent do you agree or disagree with the following statements?  
% STRONGLY AGREE OR AGREE

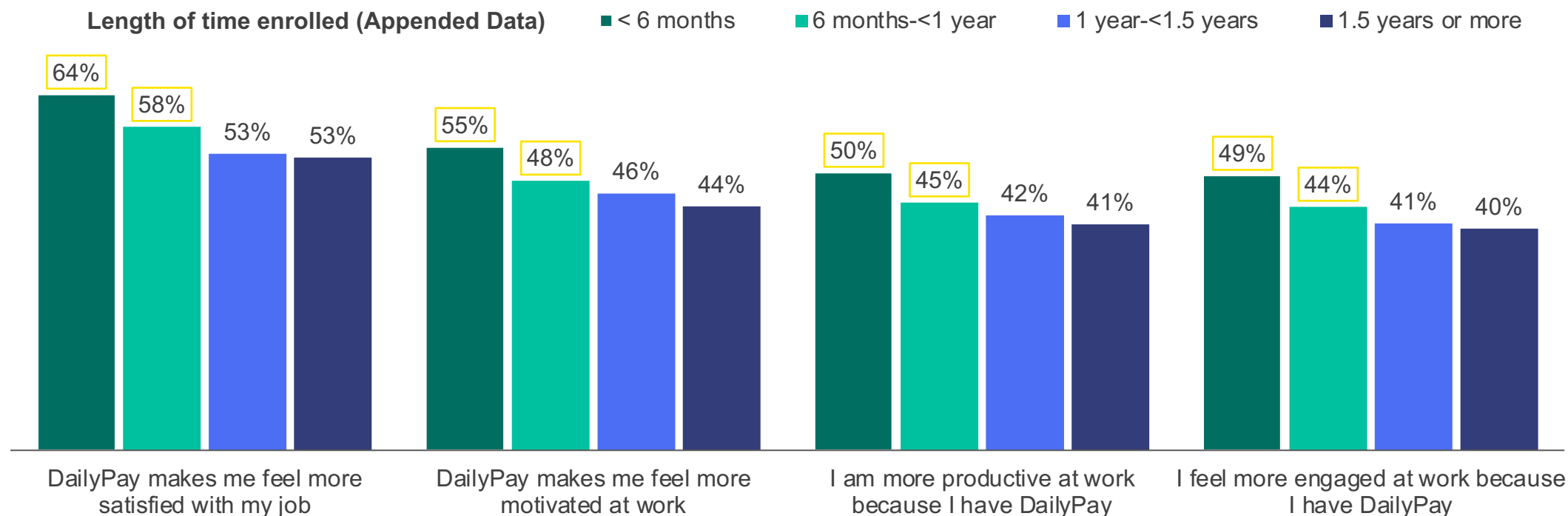


Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: By Days since enrollment in DailyPay: <30 days: n=33, 30-59 days: n=756, 60-89 days: n=1058, >90 days: n=8203

# Newer users are more likely to agree that DailyPay makes them more satisfied with their job, more motivated, productive, and engaged

*To what extent do you agree or disagree with the following statements?*  
**% WHO STRONGLY AGREE OR AGREE**

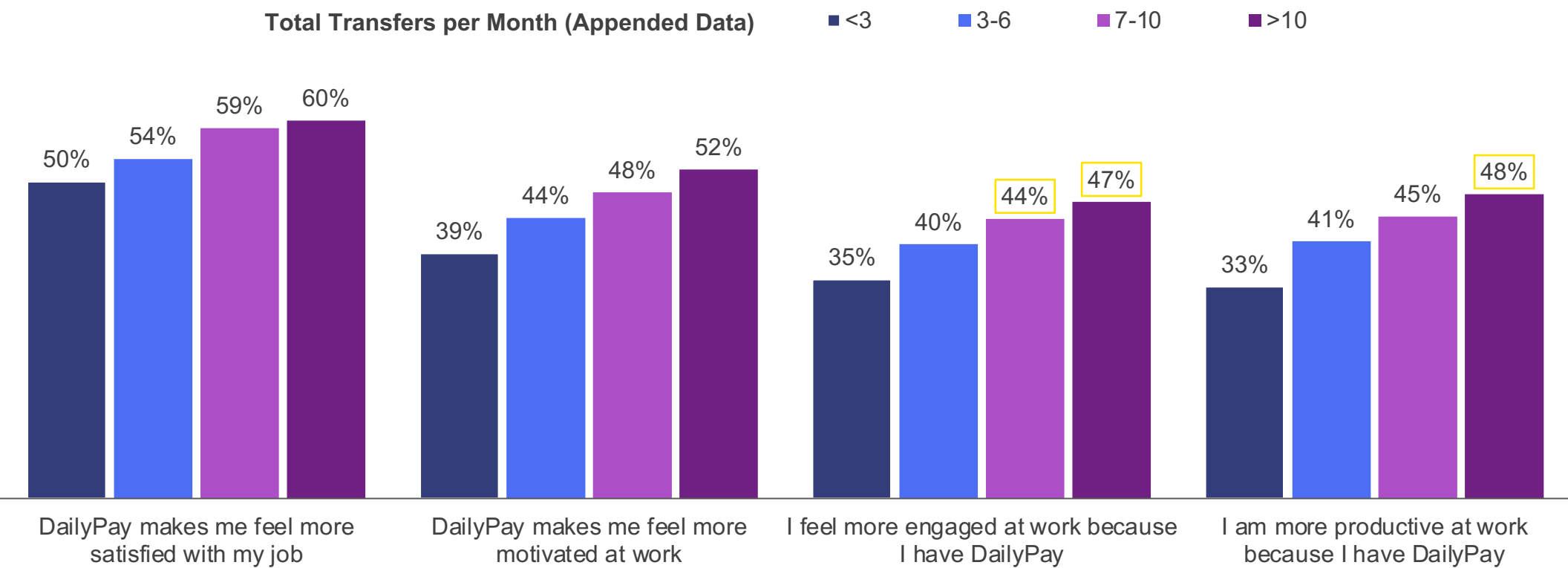


Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: By length of time enrolled: < 6 months: n=3288, 6 months-<1 year: n=1532, 1 year-<1.5 years: n=1643, 1.5 years or more

# Users who make more transfers per month are more likely to agree they are more satisfied, motivated, engaged, and productive at work because of DailyPay

To what extent do you agree or disagree with the following statements?  
% STRONGLY AGREE OR AGREE



Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

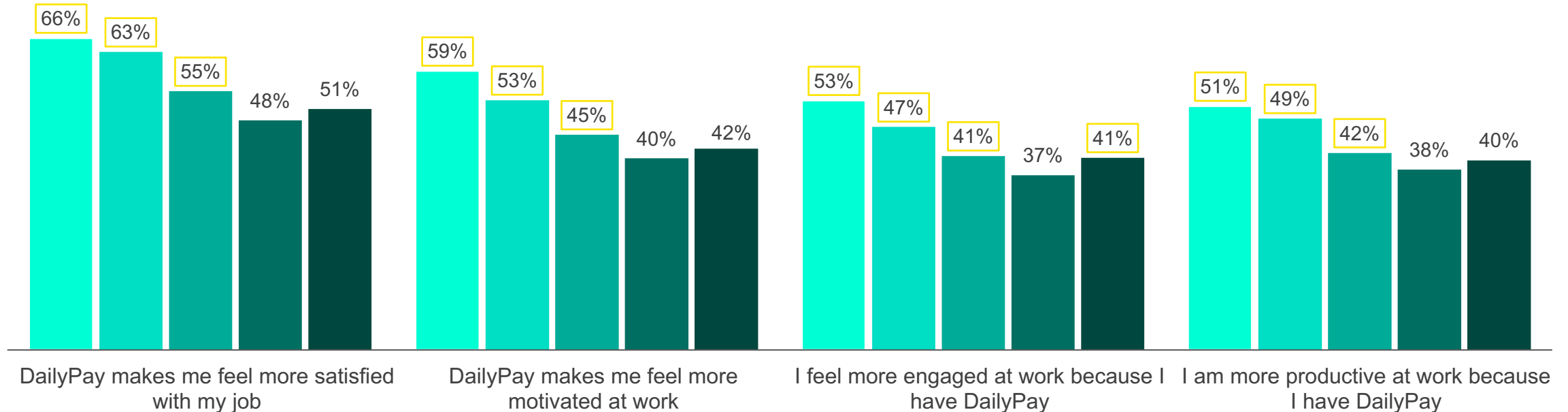
Base: By Total transfers per month: <3: n=1041, 3-6: n=1920, 7-10: n=1833, >10: n=5489

# Younger users are more likely to agree with positive sentiments about how DailyPay impacts their work performance and satisfaction

*To what extent do you agree or disagree with the following statements?*

**% STRONGLY AGREE OR AGREE**

Age Group (Self-reported data) ■ 18-24 ■ 25-34 ■ 35-44 ■ 45-54 ■ 55+



Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: By Age group: 18-24: n=1485, 25-34: n=3032, 35-44: n=2758, 45-54: n=1751, 55+: n=1115

# Non-salaried users are more likely to agree DailyPay makes them more satisfied with their job & more motivated, productive, and/or engaged

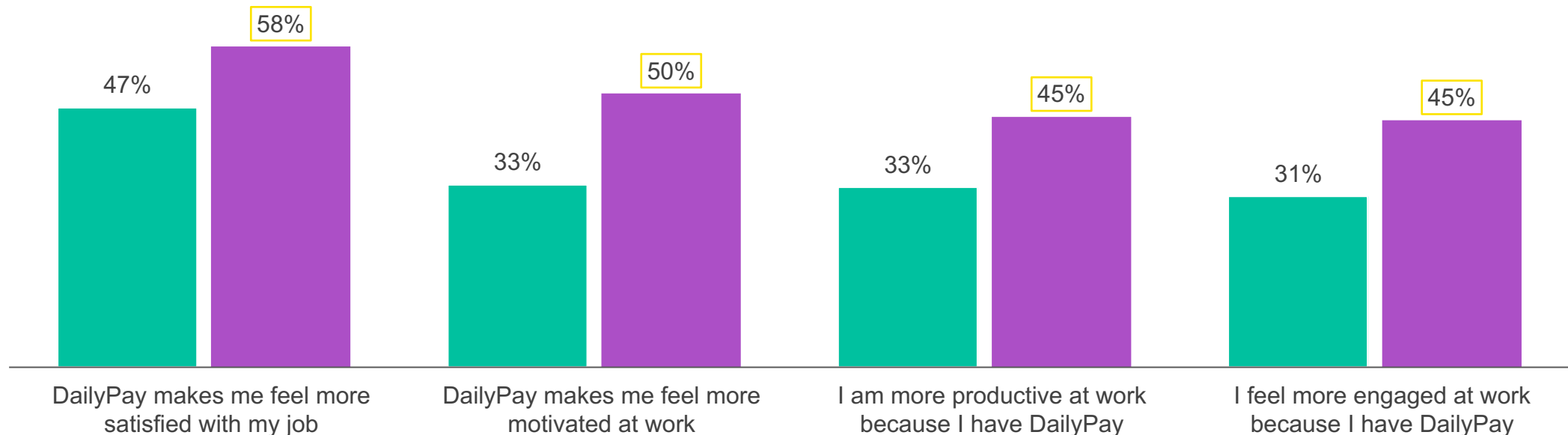
*To what extent do you agree or disagree with the following statements?*

**% WHO STRONGLY AGREE OR AGREE**

Compensation Type (Self-reported data)

■ Salaried

■ Hourly or Other



*Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.*

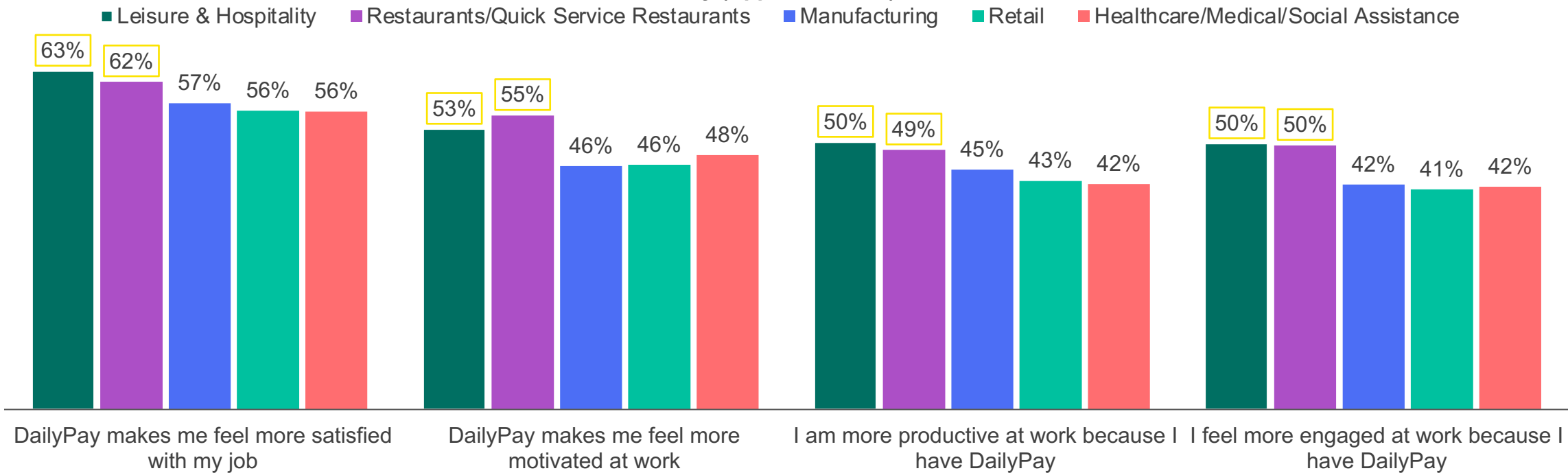
Base: Among all respondents by compensation type: Salaried: n=609, Hourly or Other: n=9674

# Restaurant and leisure/hospitality workers are more likely to agree that DailyPay improves their job satisfaction, motivation, productivity, and engagement

Among respondents who did each activity regularly or occasionally before using DailyPay  
*To what extent do you agree or disagree with the following statements?*

**% WHO STRONGLY AGREE OR AGREE**

Industry (Appended Data)



Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: Among users who fall into one of these key target industries: Retail: n=2731, Restaurants/Quick Service Restaurants: n=821, Leisure & Hospitality: n=367, Healthcare/Medical/Social Assistance: n=2456, Manufacturing: n=322

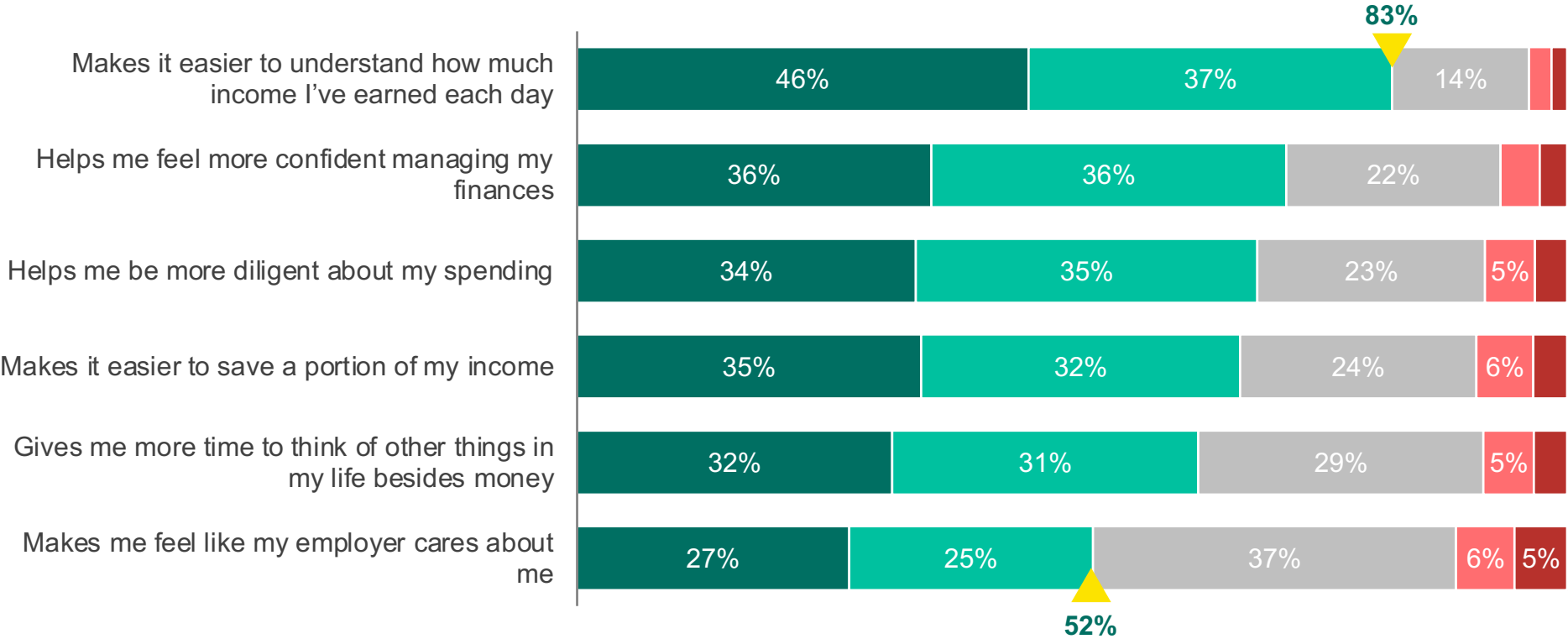
# 8-in-10 agree DailyPay helps them understand how much they earn daily; over half say DailyPay makes them feel like their employer cares about them

To what extent do you agree or disagree that DailyPay is helping you with the following things?

Strongly Agree   Agree   Neither Agree nor Disagree   Disagree   Strongly Disagree

**Significant Differences Found by:**

- Days since enrollment
- Length of time enrolled
- Transfers per month
- Age
- Compensation type

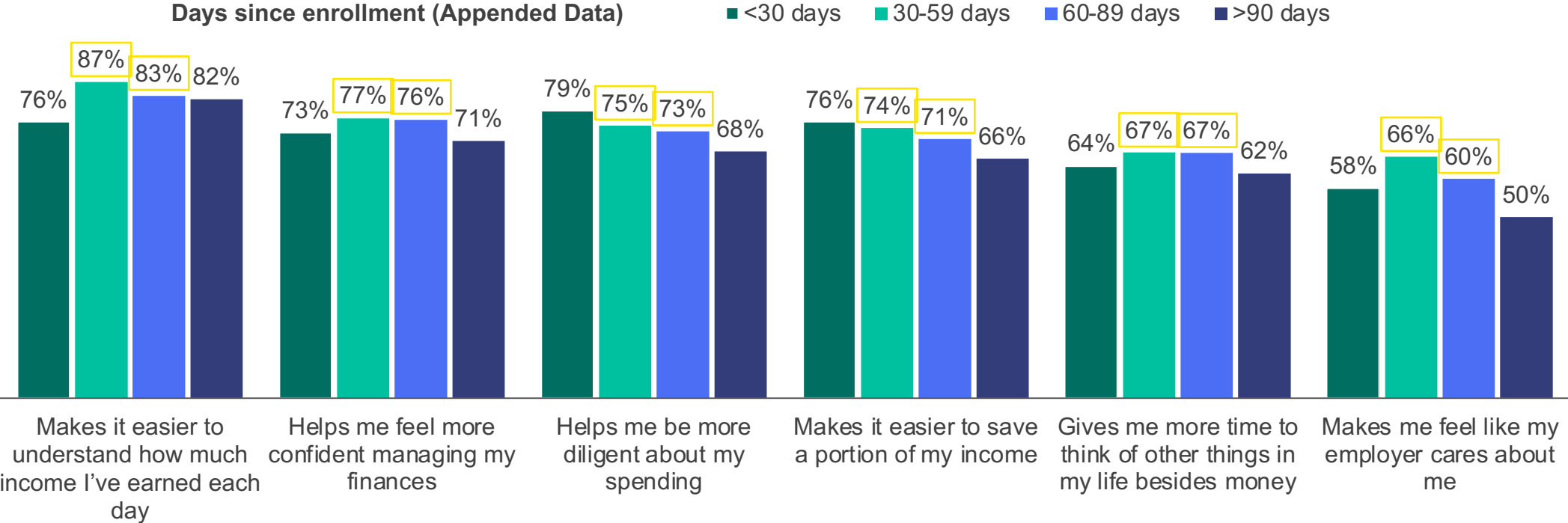


Data labels not shown for values less than 5%

Base: Total Respondents: n=10,283

# Users enrolled for 30 - 90 days are more likely to agree DailyPay improves several factors of financial wellness and makes them feel their employer cares

*To what extent do you agree or disagree that DailyPay is helping you with the following things?*  
**% STRONGLY AGREE OR AGREE**

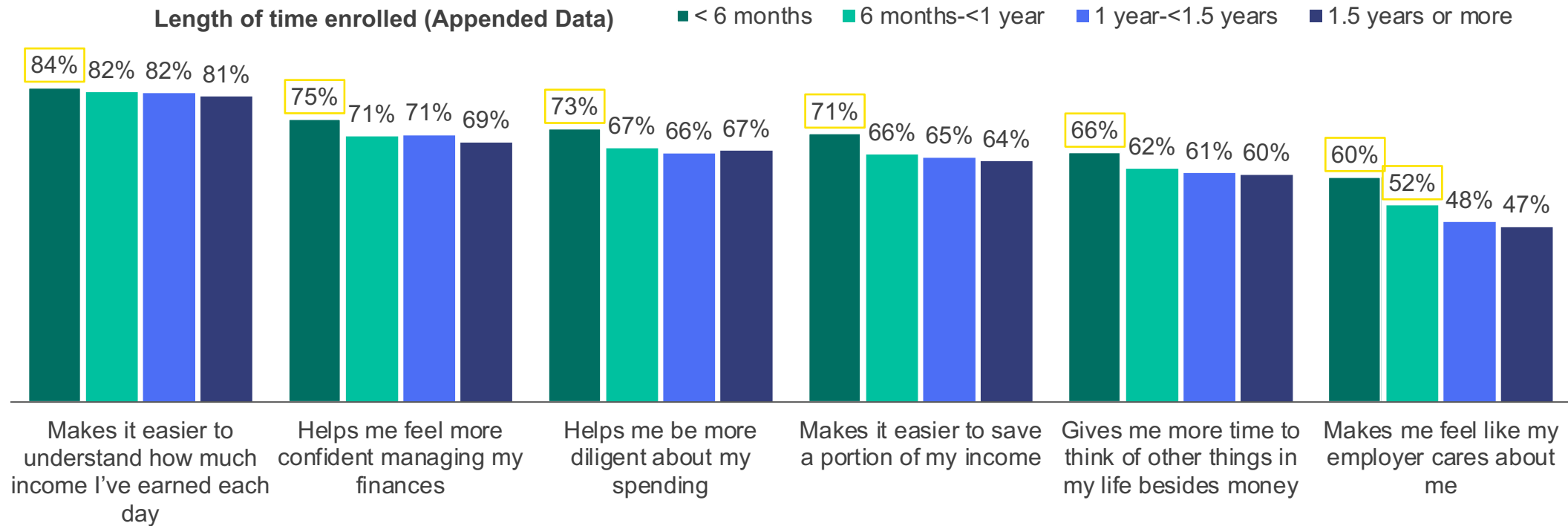


Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: By Days since enrollment in DailyPay: <30 days: n=33, 30-59 days: n=756, 60-89 days: n=1058, >90 days: n=8203

# Newer users are more likely to agree DailyPay improves several factors of financial wellness and makes them feel their employer cares

*To what extent do you agree or disagree that DailyPay is helping you with the following things?*  
**% WHO STRONGLY AGREE OR AGREE**



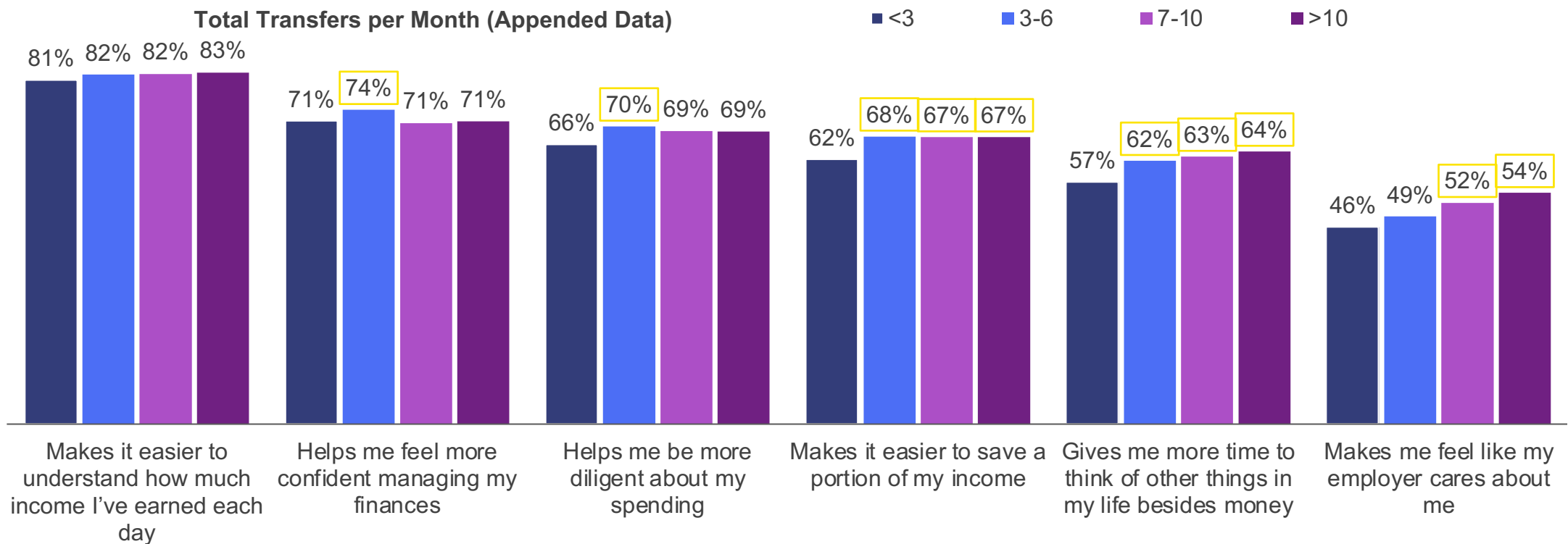
Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: By length of time enrolled: < 6 months: n=3288, 6 months-<1 year: n=1532, 1 year-<1.5 years: n=1643, 1.5 years or more

# Users who make more transfers per month are more likely to agree DailyPay makes it easier to save, gives them time to think of other things, and makes them feel their employer cares

To what extent do you agree or disagree that DailyPay is helping you with the following things?

% STRONGLY AGREE OR AGREE



Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

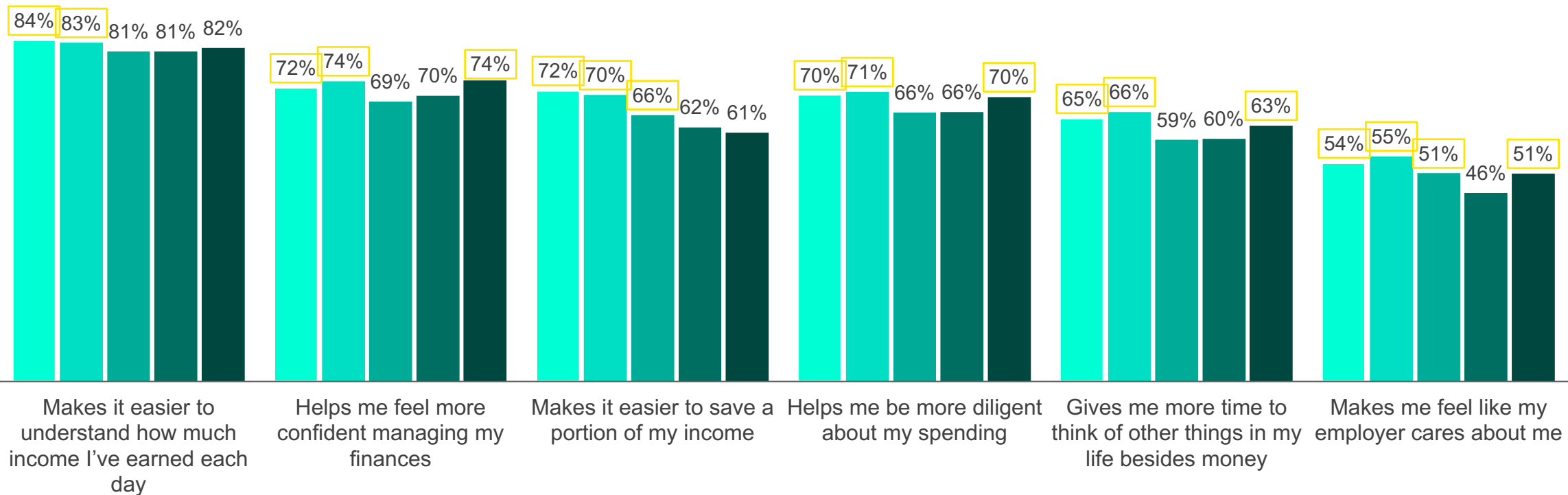
Base: By Total transfers per month: <3: n=1041, 3-6: n=1920, 7-10: n=1833, >10: n=5489

# Age groups differ on how much they think DailyPay helps them with financial wellness and makes them feel their employer cares

To what extent do you agree or disagree that DailyPay is helping you with the following things?

% STRONGLY AGREE OR AGREE

Age Group (Self-reported data)      ■ 18-24 ■ 25-34 ■ 35-44 ■ 45-54 ■ 55+

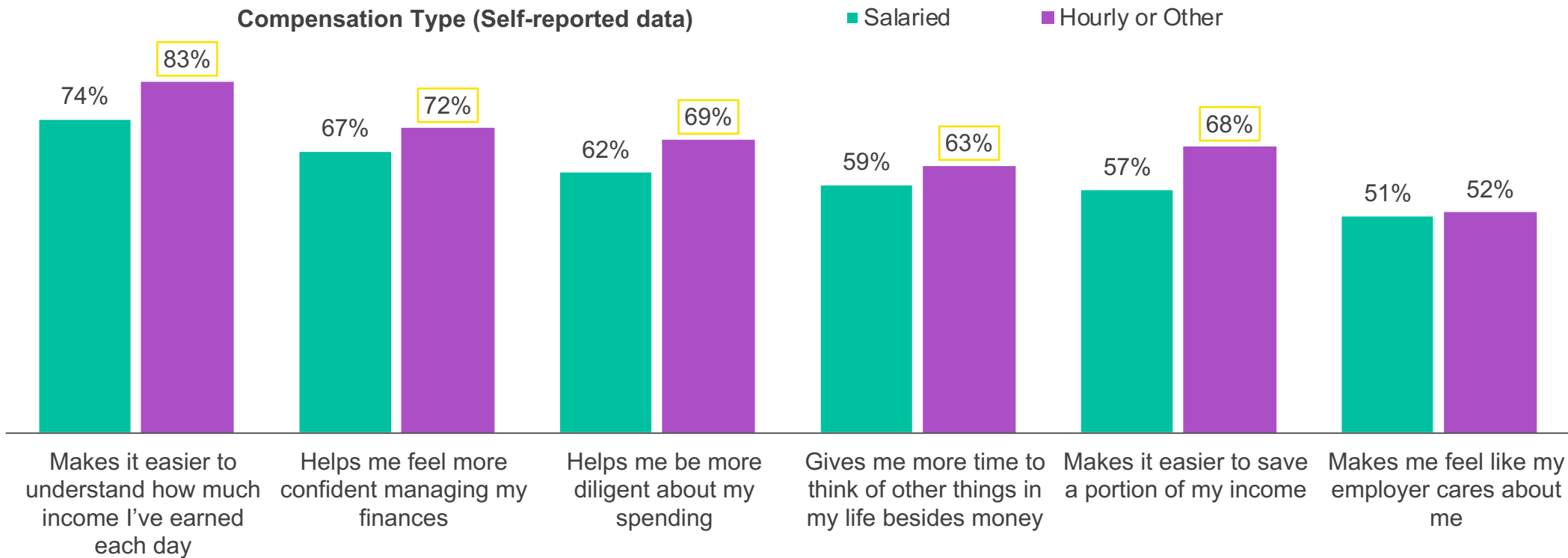


Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: By Age group: 18-24: n=1485, 25-34: n=3032, 35-44: n=2758, 45-54: n=1751, 55+: n=1115

# Non-salaried users are more likely to agree DailyPay makes it easier to manage many aspects of financial wellness

To what extent do you agree or disagree that DailyPay is helping you with the following things?  
% WHO STRONGLY AGREE OR AGREE



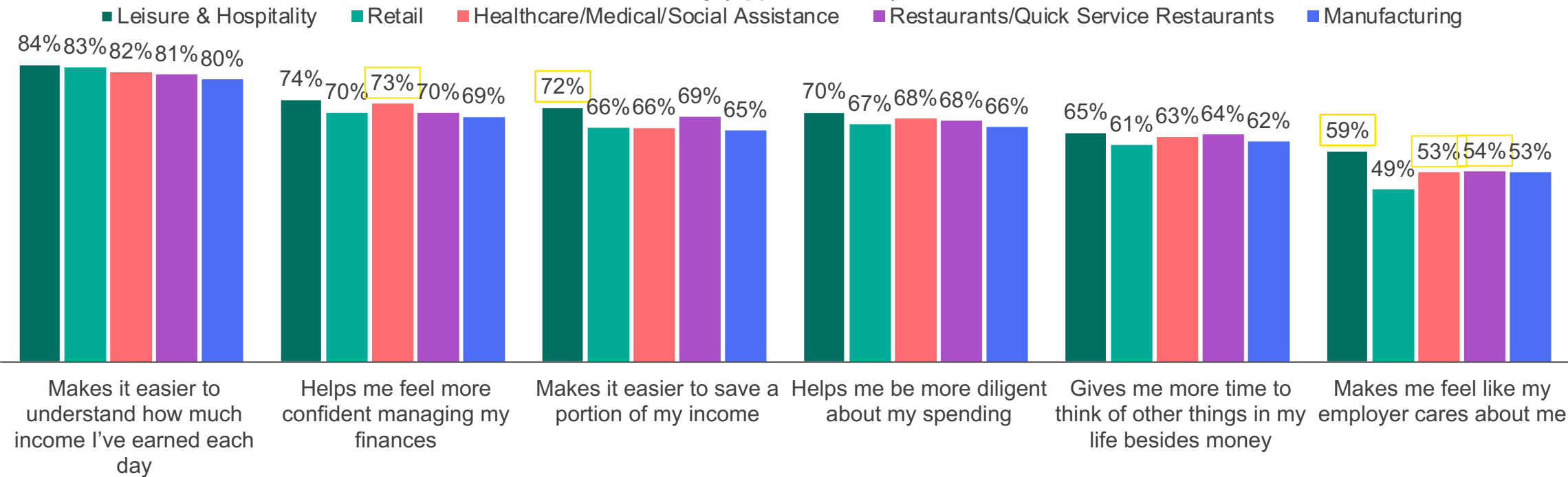
Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: Among all respondents by compensation type: Salaried: n=609, Hourly or Other: n=9674

# Users across industries widely agree that DailyPay improves various aspects of their financial wellness

To what extent do you agree or disagree that DailyPay is helping you with the following things?  
**% WHO STRONGLY AGREE OR AGREE**

Industry (Appended Data)



Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: Among users who fall into one of these key target industries: Retail: n=2731, Restaurants/Quick Service Restaurants: n=821, Leisure & Hospitality: n=367, Healthcare/Medical/Social Assistance: n=2456, Manufacturing: n=322

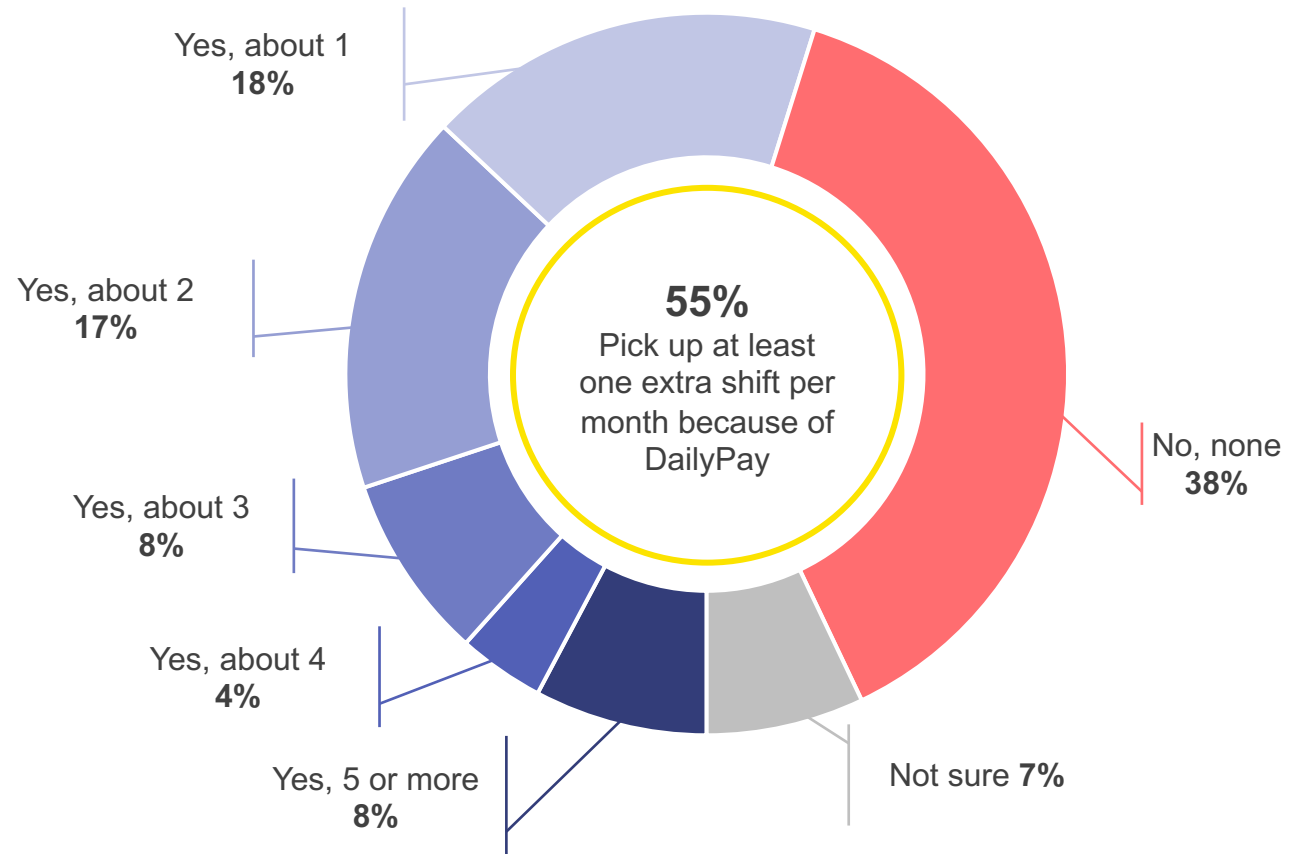
# Over half of DailyPay users pick up at least one extra shift per week because they know they can access earned pay ahead of payday

*In a typical month, do you take any extra shifts based on knowing that you can access your earned pay ahead of scheduled paydays?*

On average, users who pick up extra shifts per week because of DailyPay pick up **2.4** extra shifts per month

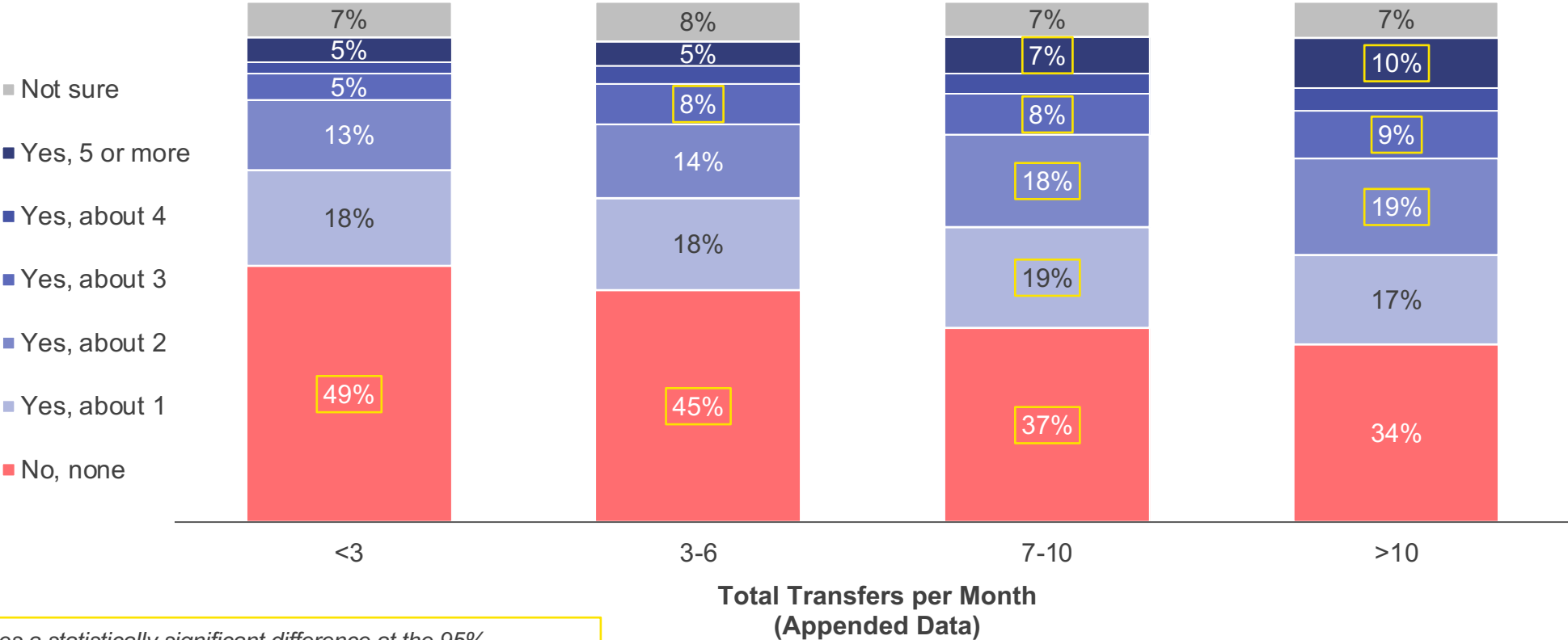
## Significant Differences Found:

- Users who make more transfers are more likely to pick up shifts
- Younger users are more likely to pick up shifts
- Non-salaried users are more likely to pick up shifts
- Restaurant workers are more likely to pick up shifts



# Users who make more transfers per month are more likely to pick up extra shifts knowing they can access their wages ahead of payday

*In a typical month, do you take any extra shifts based on knowing that you can access your earned pay ahead of scheduled payday?*



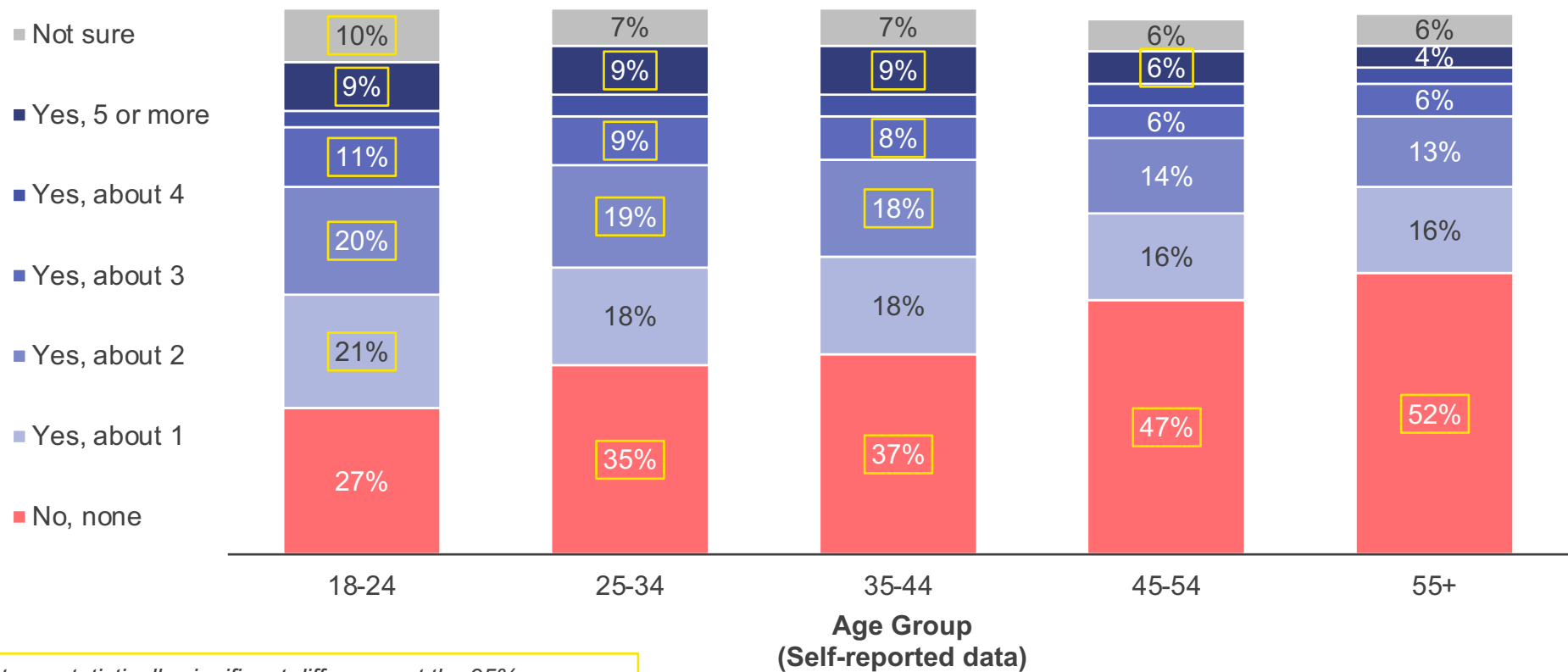
Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Labels not shown for values less than 5%

Base: By Total transfers per month: <3: n=1041, 3-6: n=1920, 7-10: n=1833, >10: n=5489

# Younger users are more likely to pick up shifts knowing they have earned wage access

*In a typical month, do you take any extra shifts based on knowing that you can access your earned pay ahead of scheduled paydays?*



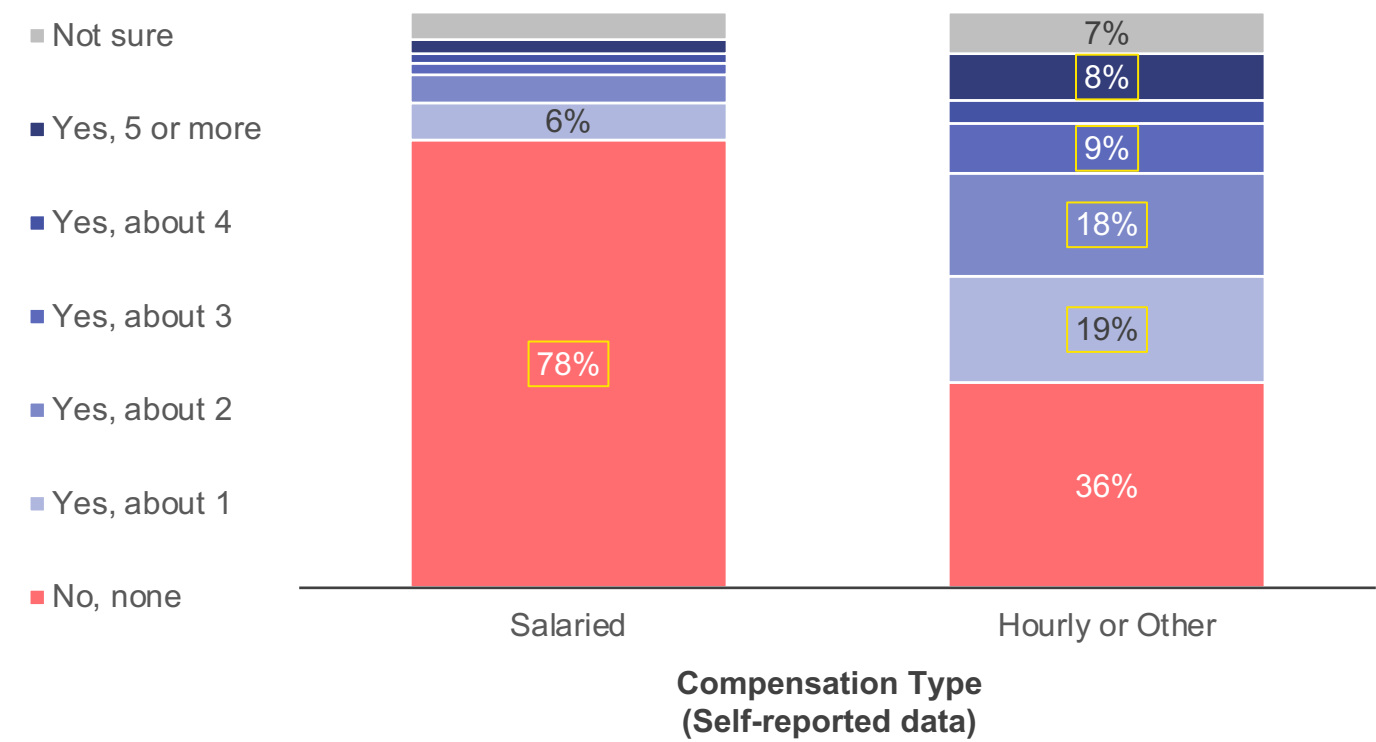
Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Labels not shown for values less than 5%

Base: By Age group: 18-24: n=1485, 25-34: n=3032, 35-44: n=2758, 45-54: n=1751, 55+: n=1115

# Non-salaried users are more motivated to pick up shifts due to earned wage access

*In a typical month, do you take any extra shifts based on knowing that you can access your earned pay ahead of scheduled paydays?*



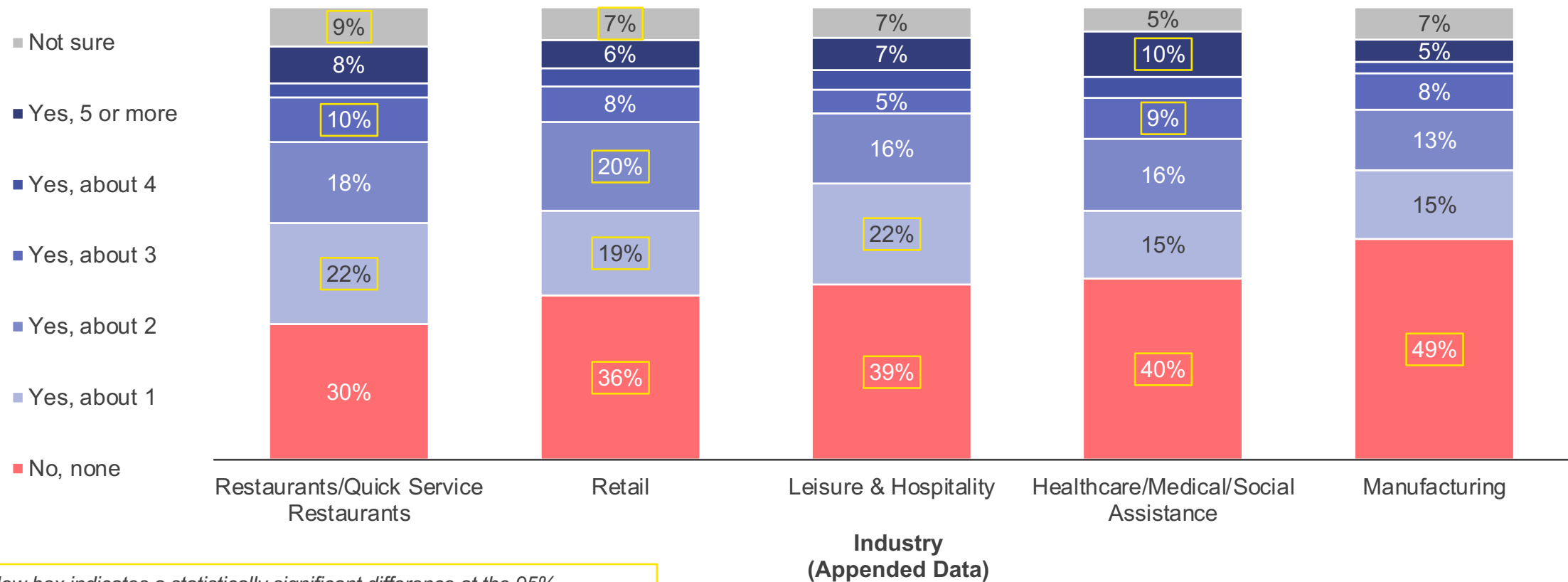
Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Labels not shown for values less than 6%

Base: Among all respondents by compensation type: Salaried: n=609, Hourly or Other: n=9674

# Restaurant workers are most likely to pick up extra shifts because they have earned wage access

*In a typical month, do you take any extra shifts based on knowing that you can access your earned pay ahead of scheduled paydays?*



Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Labels not shown for values less than 5%

Base: Among users who fall into one of these key target industries: Retail: n=2731, Restaurants/Quick Service Restaurants: n=821, Leisure & Hospitality: n=367, Healthcare/Medical/Social Assistance: n=2456, Manufacturing: n=322

# Over half say having earned wage access has improved their opinion of their employer

*How, if at all, has having access to your earned pay before scheduled paydays changed your opinion of your employer?*

It has made me feel somewhat more positive about my employer  
**19%**

It has had no impact on my opinion of my employer  
**41%**

It has made me feel somewhat more negative towards my employer  
**1%**

It has made me feel much more negative towards my employer  
**1%**

It has made me feel much more positive about my employer  
**38%**

**57%**  
Say DailyPay has improved their opinion of their employer

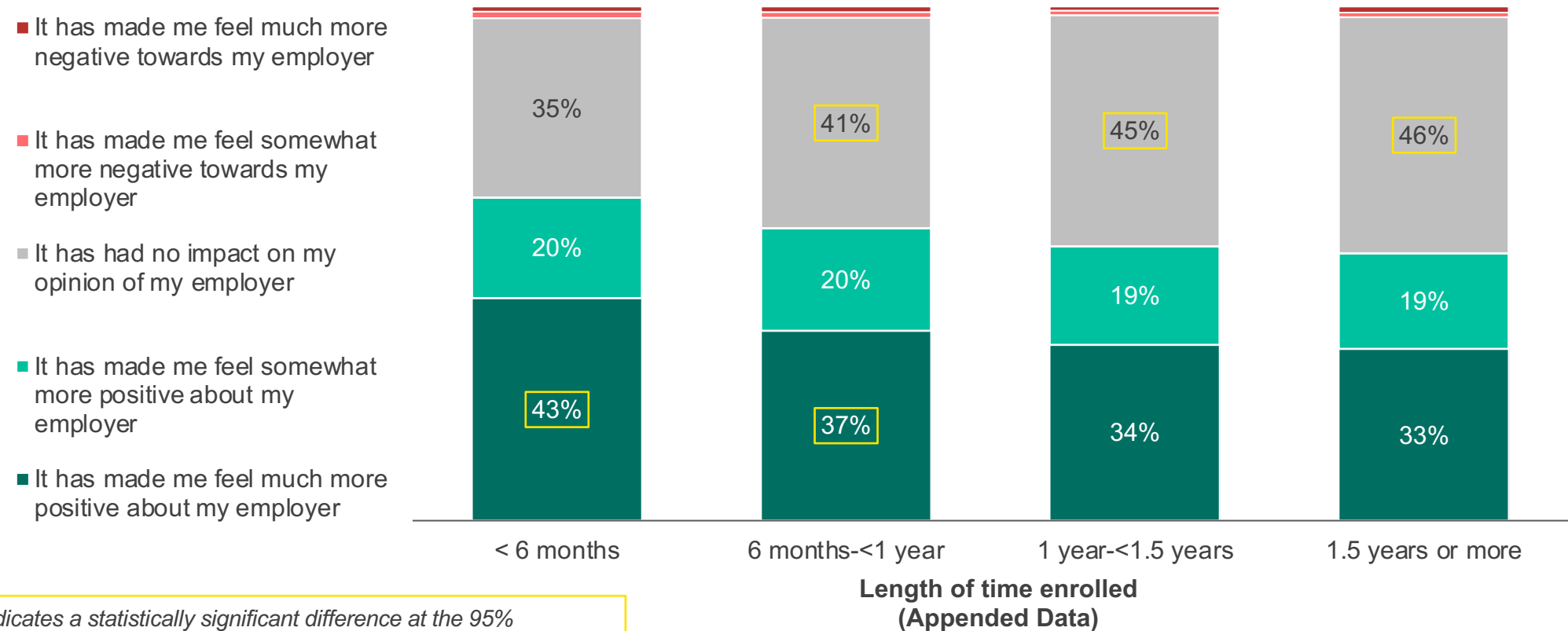
## Significant Differences Found:

- Younger users are more likely to feel much more positive about their employer due to EWA
- Non-salaried users are more likely to feel more positive about their employer due to EWA
- Leisure & hospitality and restaurant workers are more likely to feel more positive about their employer due to EWA

Base: Total Respondents: n=10,283

# Users of 6 months or less are more likely to report feeling much more positive about their employer than more tenured users

*How, if at all, has having access to your earned pay before scheduled paydays changed your opinion of your employer?*

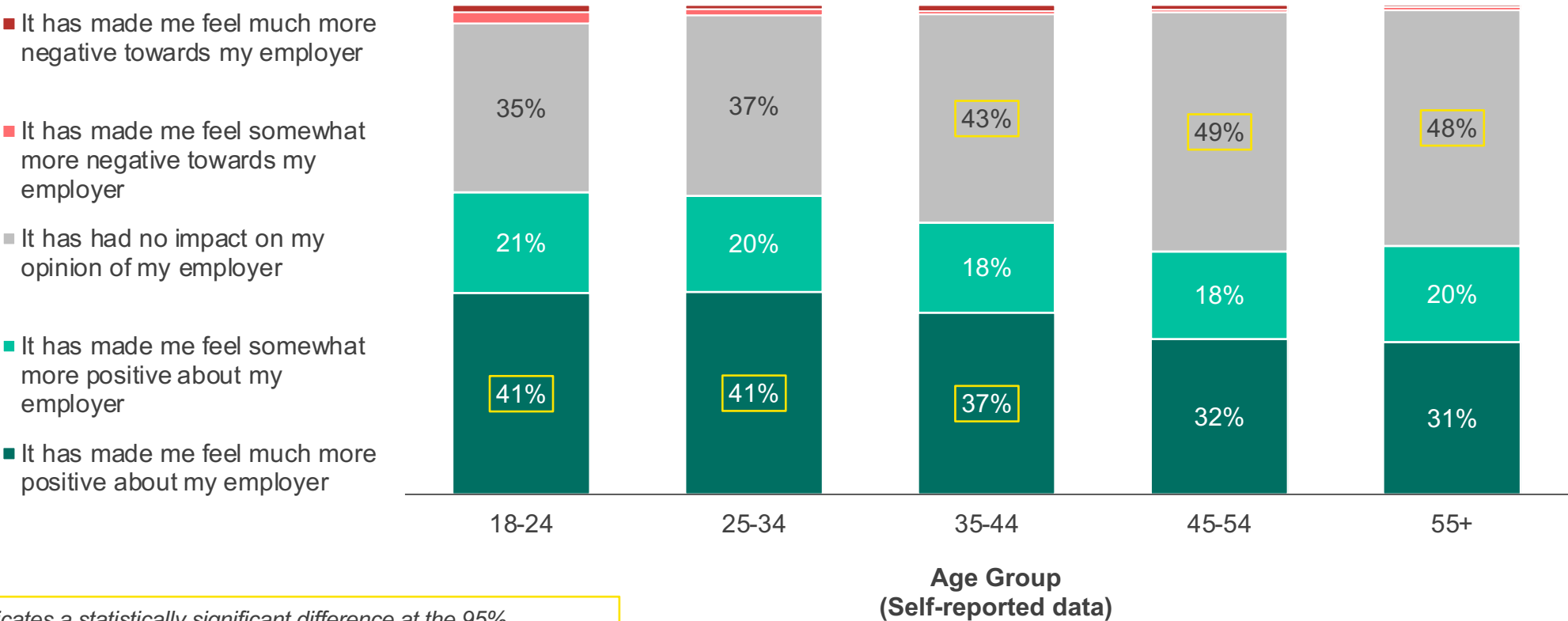


Labels not shown for values less than 5%

Base: By length of time enrolled: < 6 months: n=3288, 6 months-<1 year: n=1532, 1 year-<1.5 years: n=1643, 1.5 years or more

# Younger users are more likely to say earned wage access has made them feel much more positive about their employer

*How, if at all, has having access to your earned pay before scheduled paydays changed your opinion of your employer?*



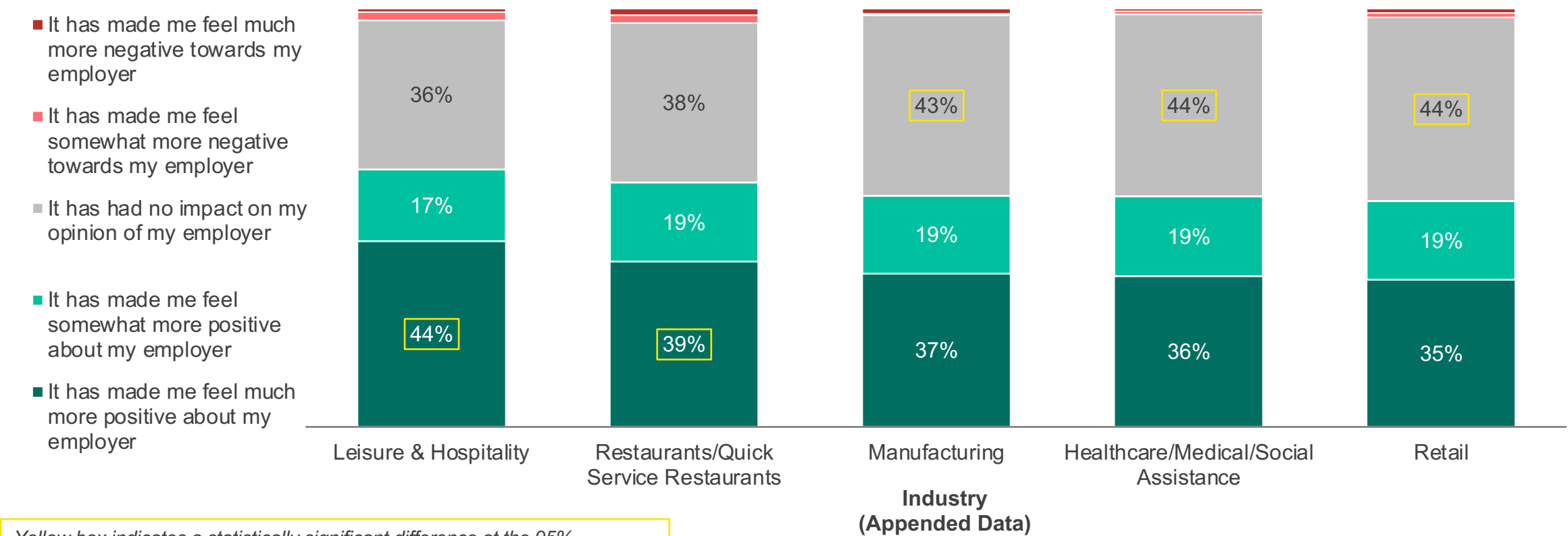
Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Labels not shown for values less than 5%

Base: By Age group: 18-24: n=1485, 25-34: n=3032, 35-44: n=2758, 45-54: n=1751, 55+: n=1115

# Leisure & hospitality workers and restaurant workers are more likely to report having earned wage access has made them feel much more positive about their employer

How, if at all, has having access to your earned pay before scheduled paydays changed your opinion of your employer?

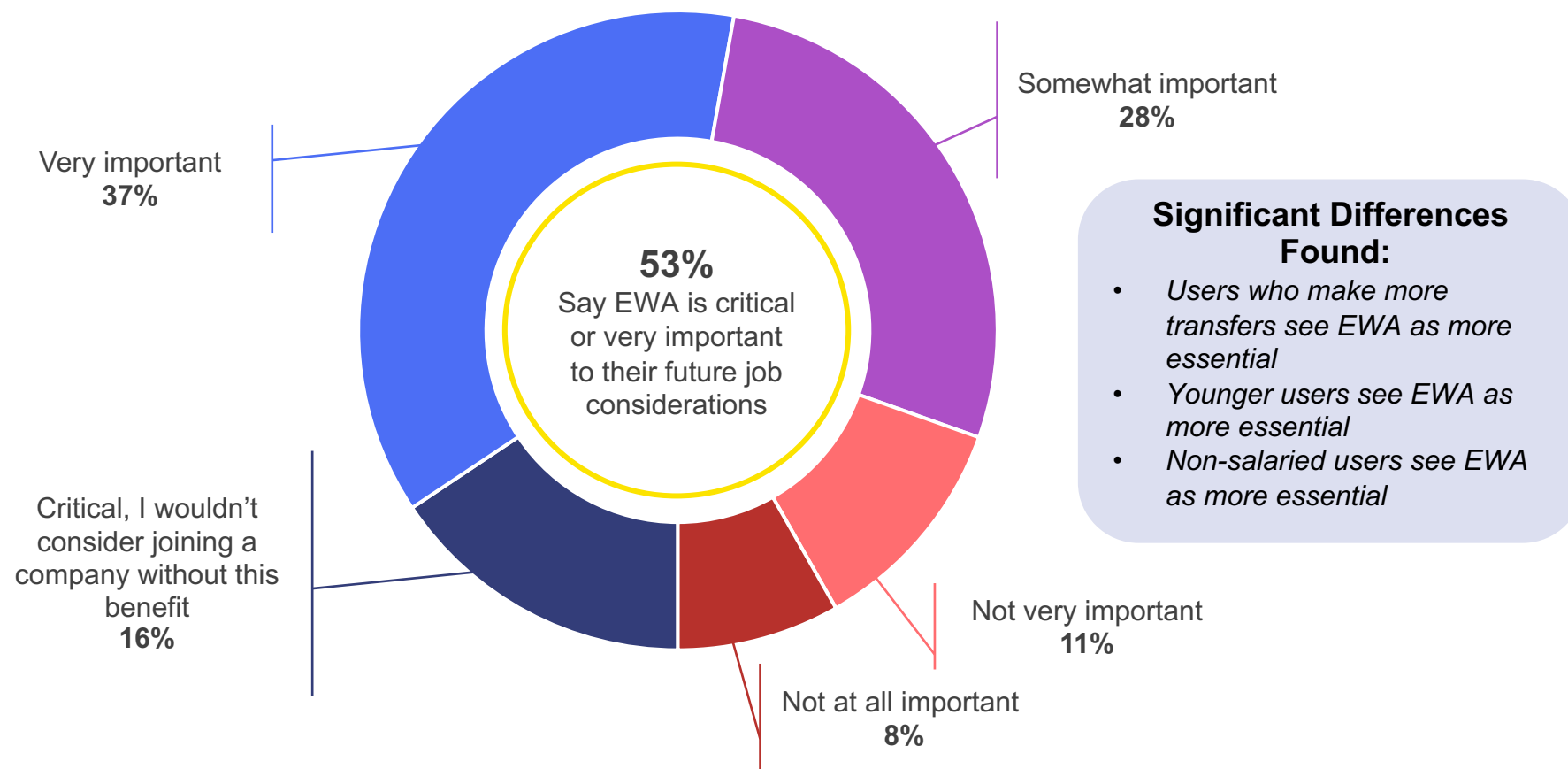


Labels not shown for values less than 5%

Base: Among users who fall into one of these key target industries: Retail: n=2731, Restaurants/Quick Service Restaurants: n=821, Leisure & Hospitality: n=367, Healthcare/Medical/Social Assistance: n=2456, Manufacturing: n=322

# Earned wage access is critical or very important to their future job considerations for over half

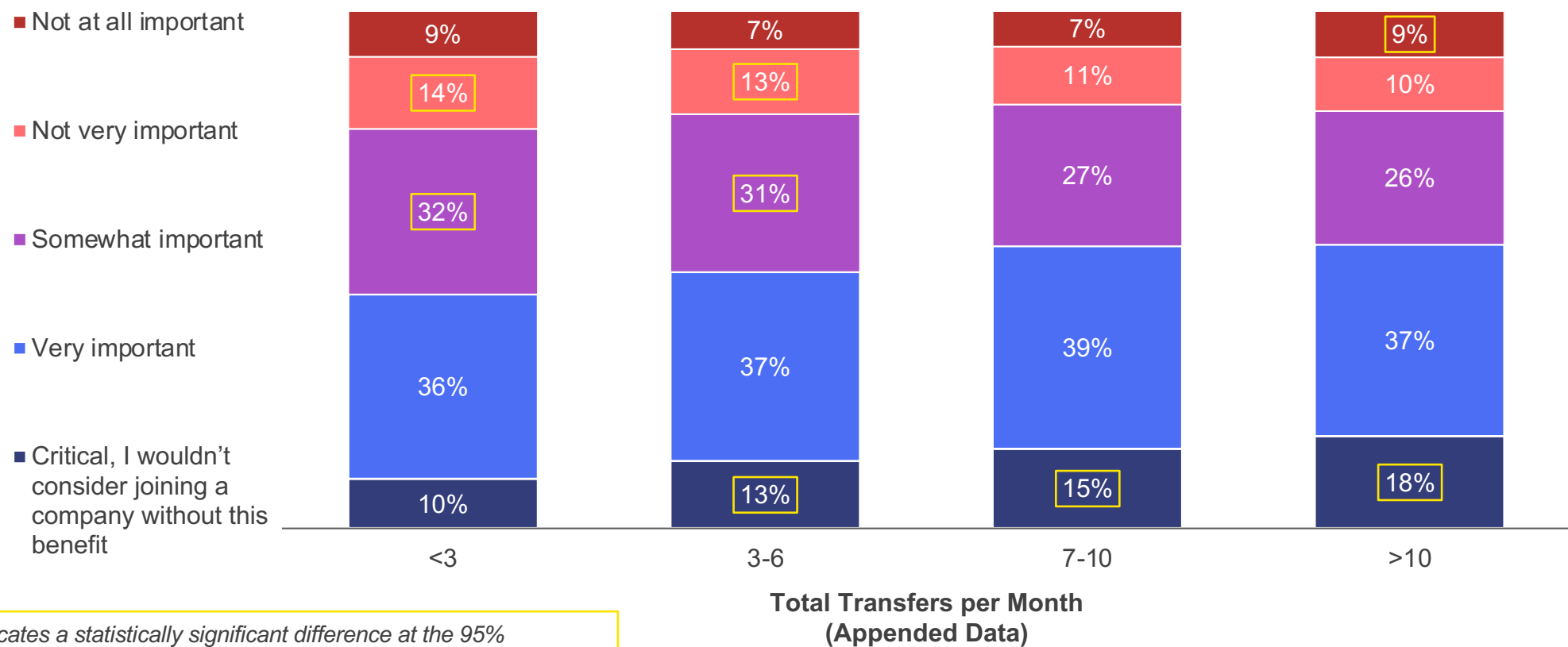
*If you were looking for a new job, how important would it be to you that a new employer offered the ability to access your earned pay ahead of scheduled paydays?*



Base: Total Respondents: n=10,283

# Users who make at least 3 transfers per month are more likely to say earned wage access is critical to future job prospects

*If you were looking for a new job, how important would it be to you that a new employer offered the ability to access your earned pay ahead of scheduled paydays?*

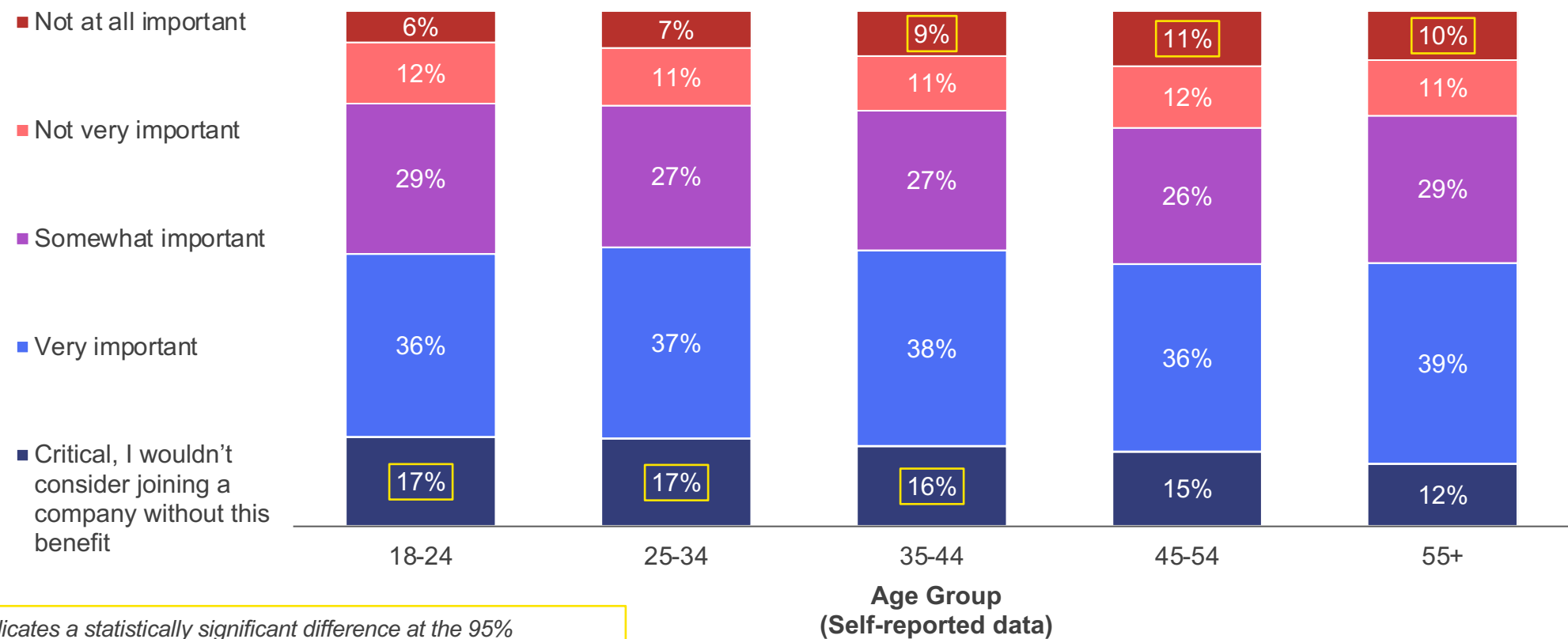


Labels not shown for values less than 5%

Base: By Total transfers per month: <3: n=1041, 3-6: n=1920, 7-10: n=1833, >10: n=5489

# Younger users are more likely to consider earned wage access critical to future job prospects

*If you were looking for a new job, how important would it be to you that a new employer offered the ability to access your earned pay ahead of scheduled paydays?*

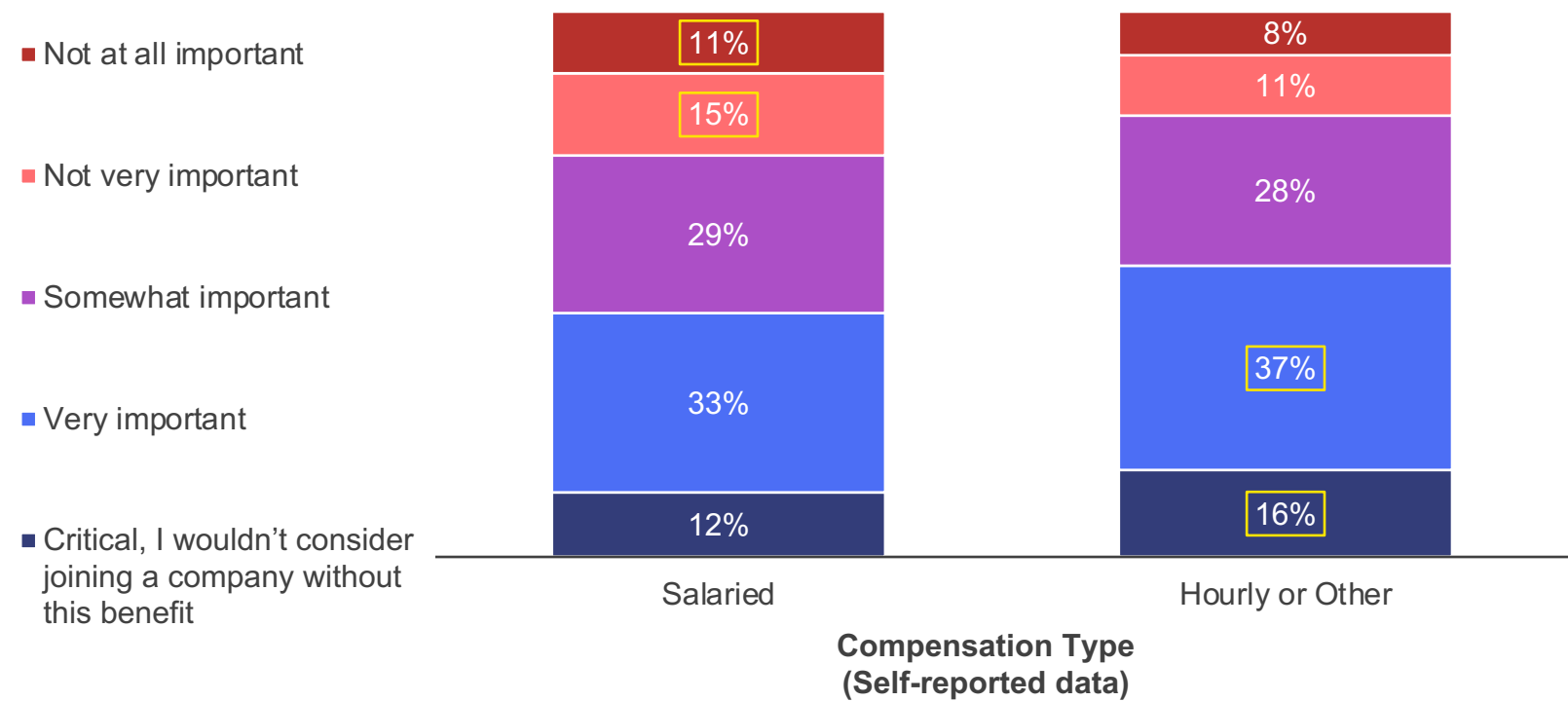


Labels not shown for values less than 5%

Base: By Age group: 18-24: n=1485, 25-34: n=3032, 35-44: n=2758, 45-54: n=1751, 55+: n=1115

# Non-salaried users are more likely to say earned wage access is critical to future job prospects

*If you were looking for a new job, how important would it be to you that a new employer offered the ability to access your earned pay ahead of scheduled paydays?*



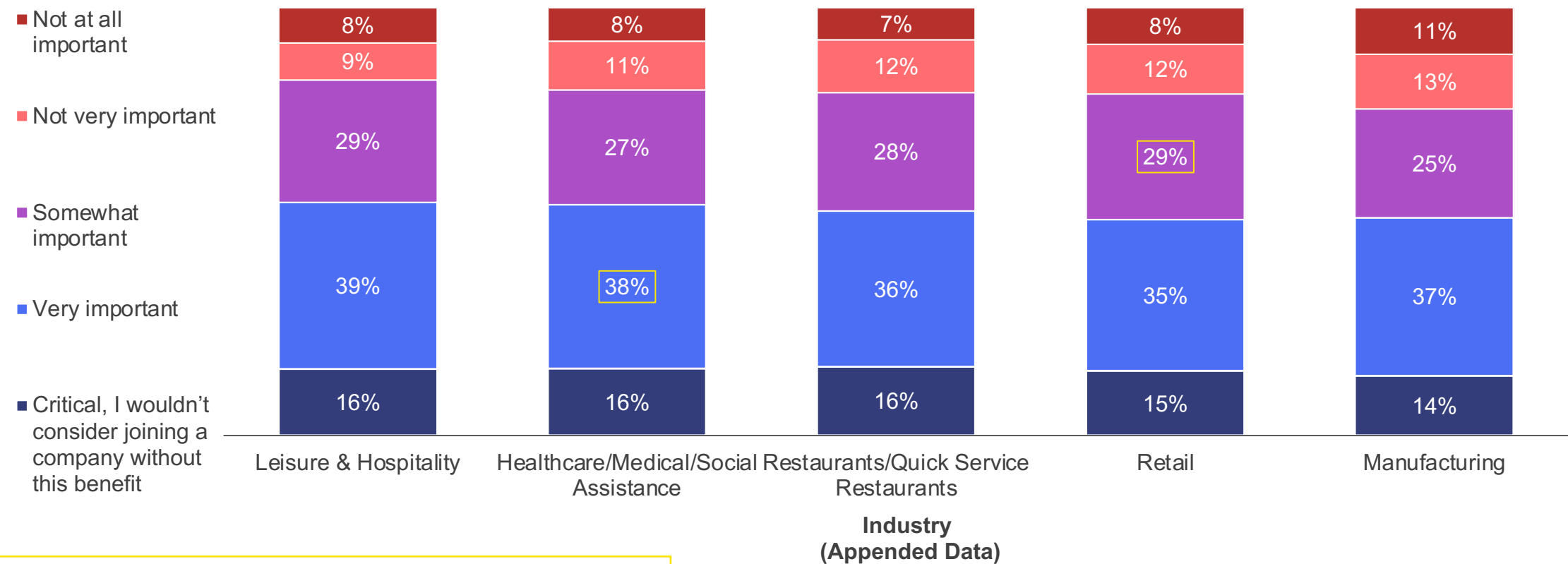
Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Labels not shown for values less than 6%

Base: Among all respondents by compensation type: Salaried: n=609, Hourly or Other: n=9674

# Earned wage access is important to the future job prospects of users across industries

*If you were looking for a new job, how important would it be to you that a new employer offered the ability to access your earned pay ahead of scheduled paydays?*



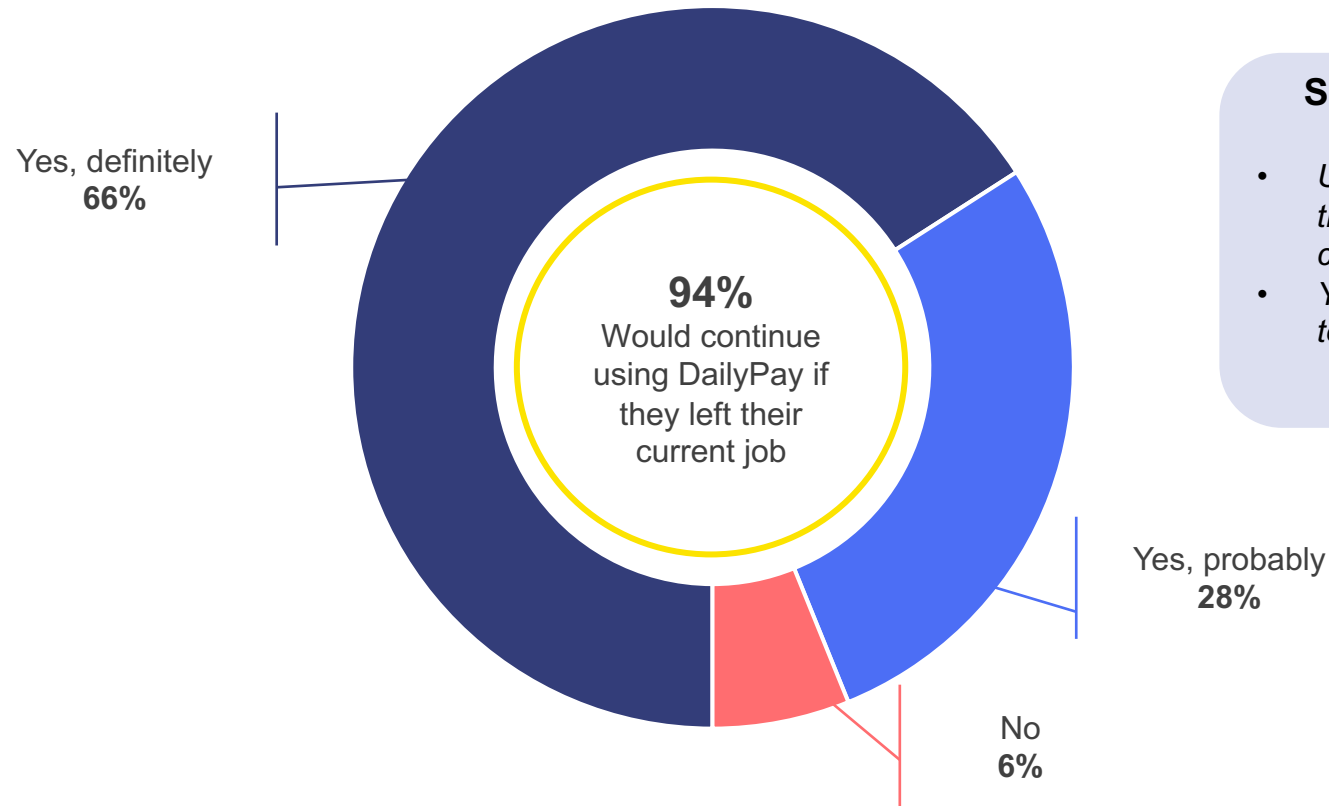
Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Labels not shown for values less than 5%

Base: Among users who fall into one of these key target industries: Retail: n=2731, Restaurants/Quick Service Restaurants: n=821, Leisure & Hospitality: n=367, Healthcare/Medical/Social Assistance: n=2456, Manufacturing: n=322

# 9-in-10 users would still likely use DailyPay after leaving their current job if they had the option

*If you had the option to continue using DailyPay, would you still use it if you left your current job/company?*

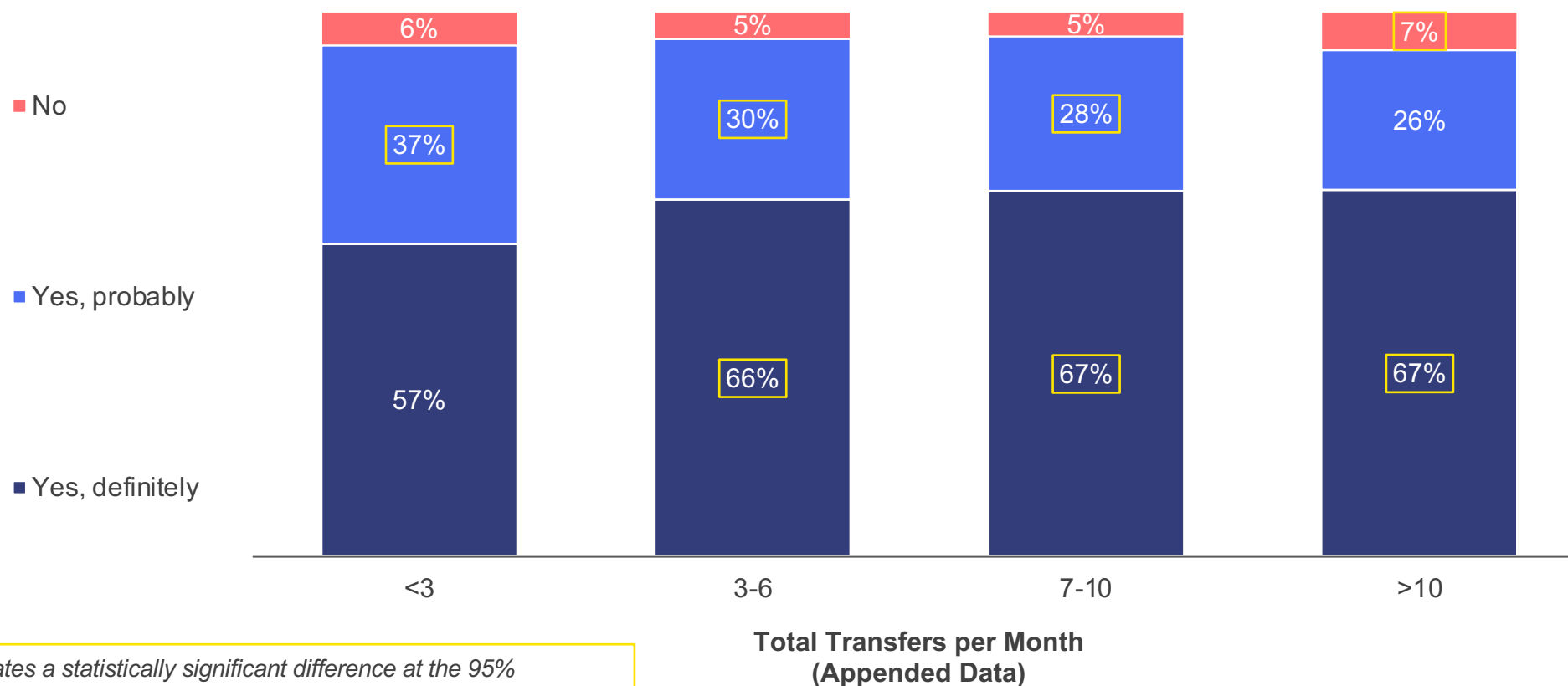


## Significant Differences Found:

- *Users who make more transfers are more likely to continue using DailyPay*
- *Younger users are more likely to continue using DailyPay*

# Users who make at least 3 transfers per month are more likely to definitely want to use DailyPay if they left their current job if they had the option

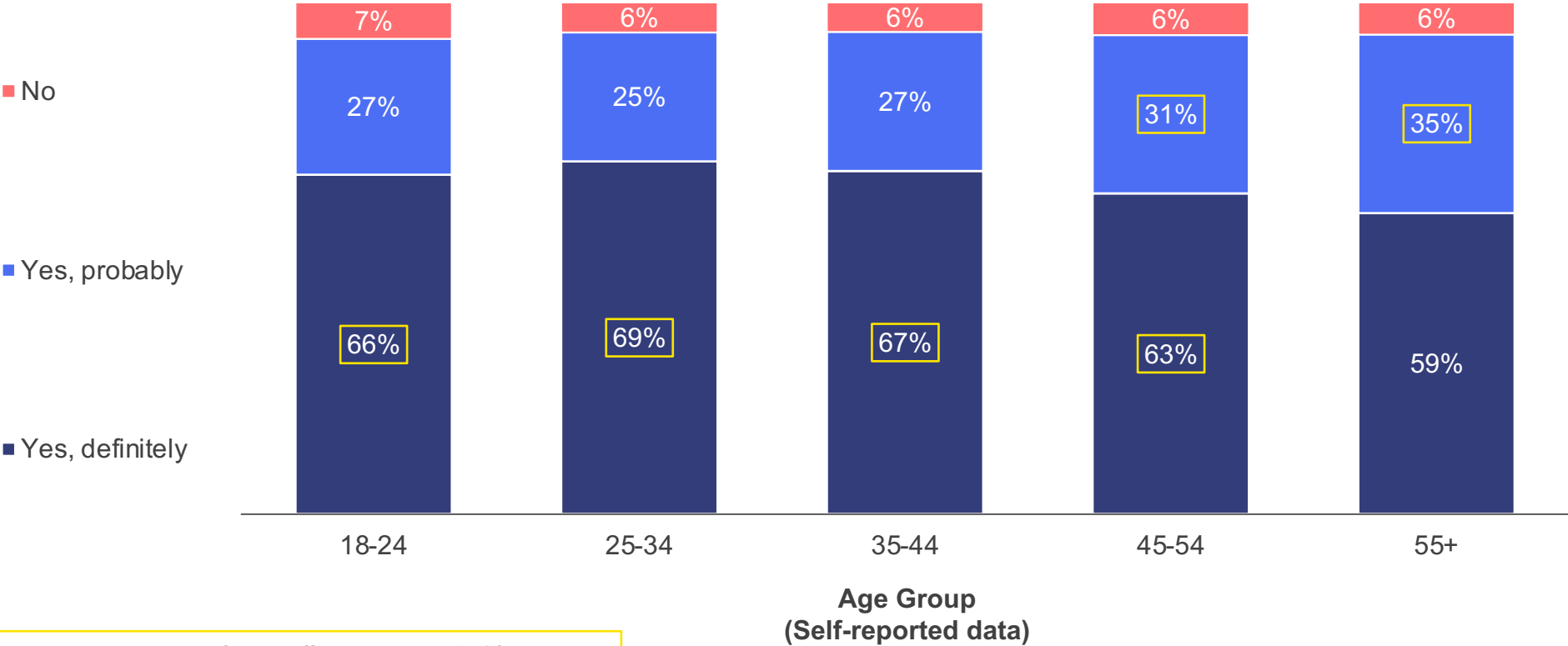
*If you had the option to continue using DailyPay, would you still use it if you left your current job/company?*



Base: By Total transfers per month: <3: n=1041, 3-6: n=1920, 7-10: n=1833, >10: n=5489

# Younger users would be more likely to continue using DailyPay if they had the option after leaving their current company

*If you had the option to continue using DailyPay, would you still use it if you left your current job/company?*

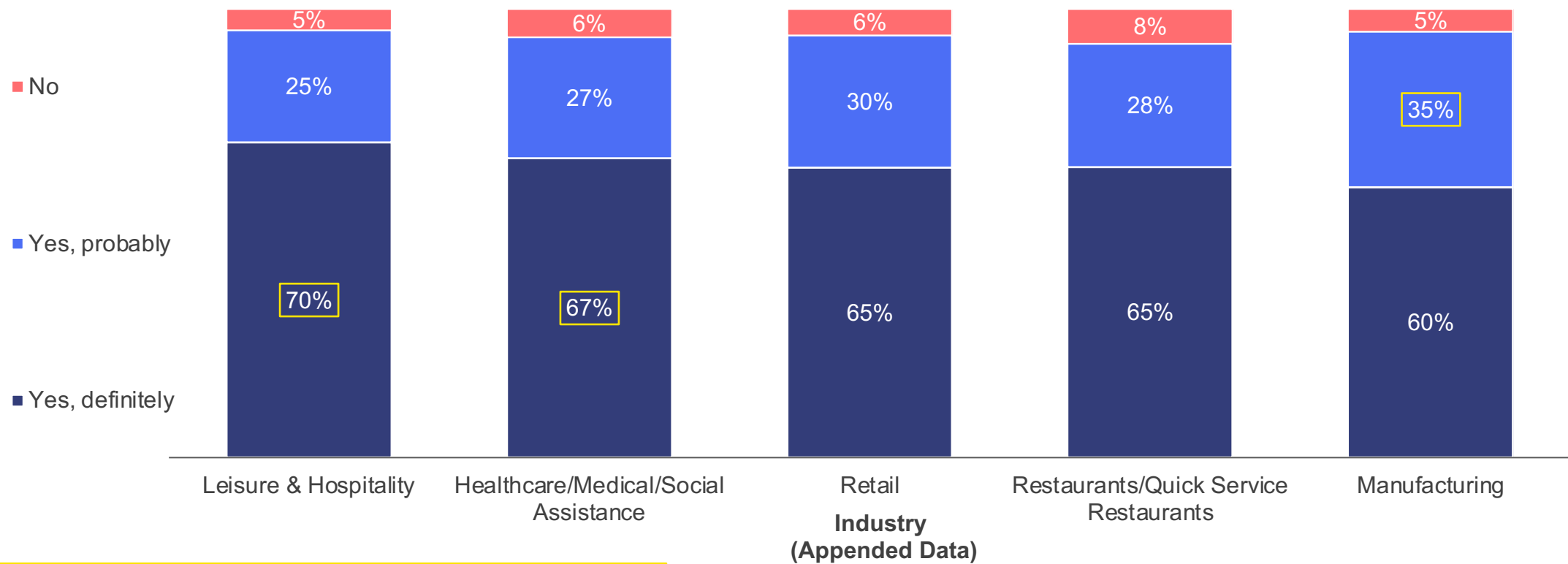


Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: By Age group: 18-24: n=1485, 25-34: n=3032, 35-44: n=2758, 45-54: n=1751, 55+: n=1115

# Leisure & hospitality and healthcare workers are most likely to say they'd definitely continue using DailyPay if they left their current company

*If you had the option to continue using DailyPay, would you still use it if you left your current job/company?*



Yellow box indicates a statistically significant difference at the 95% confidence level between highest and lowest percentages in this category.

Base: Among users who fall into one of these key target industries: Retail: n=2731, Restaurants/Quick Service Restaurants: n=821, Leisure & Hospitality: n=367, Healthcare/Medical/Social Assistance: n=2456, Manufacturing: n=322

# #leadtheway

**For more detail, please contact:**

Janet King, Vice President Research  
janet.king@arizent.com | 207.807.4806



# DailyPay, LLC Oral Testimony

TO: North Dakota Senate Industry and Business  
Committee  
FROM: Andrew Welch of DailyPay, LLC  
DATE: March 11, 2025  
SUBJECT: House Bill 1393

**Position:** Support.

**Testimony:**

Good morning, Chairman Barta and Members of the North Dakota Senate Industry and Business Committee

I'm Andrew Welch and I'm a Government Relations Manager at DailyPay and I am testifying in support of House Bill 1393. DailyPay is the country's largest employer-integrated earned wage access, or EWA company.

DailyPay has operated in North Dakota since 2015, partnering with over 200 in-state businesses to provide over 21,000 of their employees our service.

After we sign contracts with our clients, who are businesses, we integrate with their payroll systems and then all of their employees are eligible to download our app.

For those who do, we pull their net earnings 4 times a day from our partnerships with payroll and if they choose, our users can



Of the employees that download our app, about half of those on our platform just track their wages and never make a transfer. The other half who choose to pay themselves access an average \$120 per transfer.

EWA solves *for a frequency of pay problem* due to biweekly or even monthly pay schedules and it is popular with employees because *it saves them money* and helps them avoid late fees, overdraft fees, and interest. It also supports financial wellness with savings tools, credit score insights, and free financial counseling through our partnership with the nonprofit Coordinated Assistance Network (CAN).

Specifically, it gives North Dakota workers an alternative to higher cost financial products and a solution for when they face the possibility of paying a bill late.

DailyPay's research from 2021 specifically found 78% of users who had previously paid bills late saved money on late fees, overdraft fees, and interest by using DailyPay.

In December 2023 the Financial Health Network found

- people used EWA to pay bills due ahead of their paycheck,
- And that these users did not consider it a loan, but did believe it provided them access to the liquidity they needed, while also preserving their dignity.



(4) And finally, it would deter any bad actors from entering the market and simultaneously provide legal clarity for all actors operating in good faith.

I urge the committee to support this bill and I am happy to take any questions you have.

# 2025 SENATE STANDING COMMITTEE MINUTES

## Industry and Business Committee

Fort Union Room, State Capitol

HB 1393

3/19/2025

A bill relating to earned wage access providers; and to provide a penalty.
--

10:28 a.m. Chairman Barta opened the hearing.

Members present: Chairman Barta, Vice-Chair Boehm, Senator Klein, Senator Kessel, Senator Enget

### Discussion Topics:

- Data collections and reporting
- Consumer protection

10:28 a.m. Chairman Barta led committee discussion and reviewed status of HB 1393.

10:32 a.m. Chairman Barta closed the hearing.

*Audrey Oswald, Committee Clerk*

# 2025 SENATE STANDING COMMITTEE MINUTES

## Industry and Business Committee Fort Union Room, State Capitol

HB 1393  
3/25/2025

A bill relating to earned wage access providers; and to provide a penalty.
--

9:25 a.m. Chairman Barta opened the hearing.

Members present: Chairman Barta, Vice-Chair Boehm, Senator Klein, Senator Kessel, Senator Enget

### Discussion Topics:

- Pay day loan reporting databases and regulations
- Consumer directed online pay day loans
- Loan limits
- Consumer costs and fee increases

9:26 p.m. Bill Colonic, ND Pawn Brokers Association, answered the committee's questions regarding payday loans requirements.

9:34 a.m. Chairman Barta closed the hearing.

*Audrey Oswald, Committee Clerk*

# 2025 SENATE STANDING COMMITTEE MINUTES

## Industry and Business Committee Fort Union Room, State Capitol

HB 1393  
3/25/2025

A bill relating to earned wage access providers; and to provide a penalty.
--

3:19 p.m. Chairman Barta opened the hearing.

Members present: Chairman Barta, Vice-Chair Boehm, Senator Klein, Senator Kessel, Senator Enget

### Discussion Topics:

- Consumer direct wage access service
- Fiscal note and additional FTE
- Possible appropriations
- Third party outsourcing
- Payday database
- Consumer fees charged and fee structure
- Non-depository funding streams
- Consumer protection
- Data breach and privacy concerns
- Paper trails and history of transactions
- Complaints against EWA companies

3:20 p.m. Corey Krebs, Assistant Commissioner, ND Department of Financial Institutions, answered the committee's questions.

3:32 p.m. Alex Kelsch, DailyPay, answered the committee's questions.

3:37 p.m. Lacey Anderson, ND Court System, answered the committee's questions.

3:45 p.m. Chairman Barta adjourned the meeting.

*Audrey Oswald, Committee Clerk*

# 2025 SENATE STANDING COMMITTEE MINUTES

## Industry and Business Committee Fort Union Room, State Capitol

HB 1393  
3/26/2025

A bill relating to earned wage access providers; and to provide a penalty.
--

10:35 a.m. Chairman Barta called the meeting to order.

Members present: Chairman Barta, Vice-Chair Boehm, Senator Klein, Senator Kessel, Senator Enget

### Discussion Topics:

- Security breaches
- Fiscal note and an additional FTE
- Better Business Bureau
- Creation of a fee schedule
- Licensing requirements
- RFP contracts and negotiations
- Consumer protection
- Department of Financial Institutions regulation
- Fiscal cap amount

10:35 a.m. Chairman Barta led the discussion and updated the committee on proposed amendments regarding consumer-directed wage access services database.

10:40 a.m. Corey Krebs, Assistant Commissioner, ND Department of Financial Institutions, answered the committee's questions.

10:46 a.m. Senator Klein moved to adopt Amendment LC# 25.1073.02002.

10:46 a.m. Senator Boehm seconded the motion.

Senators	Vote
Senator Jeff Barta	Y
Senator Keith Boehm	Y
Senator Mark Enget	Y
Senator Greg Kessel	Y
Senator Jerry Klein	Y

Motion passed 5-0-0.

10:52 a.m. Senator Klein moved a Do Pass As Amended.

10:52 a.m. Senator Barta Seconded the motion.

<b>Senators</b>	<b>Vote</b>
Senator Jeff Barta	Y
Senator Keith Boehm	Y
Senator Mark Enget	Y
Senator Greg Kessel	Y
Senator Jerry Klein	Y

Motion passed 5-0-0.

Senator Klein will carry the bill.

10:53 a.m. Chairman Barta close the hearing

*Audrey Oswald, Committee Clerk*

CO  
3/24/25  
10416

Sixty-ninth  
Legislative Assembly  
of North Dakota

**PROPOSED AMENDMENTS TO  
FIRST ENGROSSMENT**

**ENGROSSED HOUSE BILL NO. 1393**

Introduced by

Representative Dockter

Senator Klein

- 1 A BILL for an Act to create and enact a new chapter to title 13 of the North Dakota Century  
2 Code, relating to earned wage access providers; and to provide a penalty.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

- 4 **SECTION 1.** A new chapter to title 13 of the North Dakota Century Code is created and  
5 enacted as follows:

6 **Definitions.**

7 As used in this chapter:

8 1. a. "Charge" means:

9 (1) The amount imposed by a provider for delivery or expedited delivery of  
10 proceeds to a consumer.

11 (2) A subscription or membership imposed by a provider for a bona fide group  
12 of services that include earned wage access services.

13 b. The term does not include a voluntary tip, gratuity, or other donation.

14 2. "Commissioner" means the commissioner of financial institutions.

15 3. "Consumer" means an individual who resides in this state.

16 4. "Consumer-directed wage access services" means delivering to a consumer access to  
17 earned but unpaid income that is based on the consumer's representations and the  
18 provider's reasonable determination of the consumer's earned but unpaid income.

19 5. "Earned but unpaid income" means salary, wages, or compensation that a consumer  
20 or an employer has represented, and that a provider reasonably has determined, has

- 1           been earned or accrued to the benefit of the consumer in exchange for the consumer's  
2           provision of services to the employer or on behalf of the employer, including on an  
3           hourly, project-based, piecework, or other basis, and including circumstances in which  
4           the consumer is acting as an independent contractor of the employer, but has not, at  
5           the time of the payment of proceeds, been paid to the consumer by the employer.
- 6       6. "Earned wage access services" means providing consumer-directed wage access  
7           services or employer-integrated wage access services.
- 8       7. a. "Employer" means:  
9           (1) A person who employs a consumer.  
10          (2) Any other person who is contractually obligated to pay a consumer earned  
11           but unpaid income in exchange for the consumer's provision of services to  
12           the employer or on behalf of the employer including on an hourly, project-  
13           based, piecework, or other basis and including circumstances in which the  
14           consumer is acting as an independent contractor with respect to the  
15           employer.
- 16       b. The term does not include:  
17           (1) A customer of an employer.  
18           (2) Any other person whose obligation to make a payment of salary, wages,  
19           compensation, or other income to a consumer is not based on the provision  
20           of services by that consumer for or on behalf of the person.
- 21       8. "Employer-integrated wage access services" means delivering to a consumer access  
22           to earned but unpaid income that is based on employment, income, and attendance  
23           data obtained directly or indirectly from an employer or an employer's payroll service  
24           provider.
- 25       9. "Outstanding proceeds" means proceeds remitted to a consumer by a provider that  
26           have not yet been repaid to the provider.
- 27       10. "Proceeds" means funds received by a consumer under an earned income access  
28           transaction.
- 29       11. a. "Provider" or "earned wage access services provider" means a person that is in  
30           the business of providing earned wage access services to consumers.  
31       b. The terms do not include:

- (1) A service provider, such as a payroll service provider, whose role may include verifying the available earnings but is not contractually obligated to fund any proceeds delivered as part of an earned wage access service; or
- (2) An employer that offers a portion of salary, wages, or compensation directly to its employees or independent contractors before the normally scheduled pay date.

**Administration.**

The department of financial institutions shall administer and enforce this chapter. The department has the power to promulgate rules, in accordance with chapter 28-32, as necessary to carry out the provisions of this chapter.

**License.**

1. An individual or business entity, except for an exempt organization as defined in this chapter, may not engage in the business of providing or offering earned income access transactions to consumers, or enter an earned income access transaction with a consumer, without first obtaining a license under this chapter. An individual or business entity is considered to be engaging in the business of earned wage access service if the consumer is located in this state.
2. An application for a license under this chapter must be in writing, under oath, and in the form prescribed by the commissioner.
3. Each applicant shall maintain a tangible net worth of at least twenty-five thousand dollars or other amount as the commissioner may determine necessary to protect the public interests.
4. The financial responsibility, financial condition, business experience, character, and general fitness of the applicant must reasonably warrant the belief that the applicant's business will be conducted lawfully and fairly. In determining whether this qualification is met and for the purpose of investigating compliance with this chapter, the commissioner may review and consider the relevant business records and the capital adequacy of the applicant and the competence, experience, integrity, and financial ability of any person that is a member, partner, director, officer, or twenty-five percent or more shareholder of the applicant, and whether the applicant has filed any appropriate registration with the secretary of state.

- 1        5. Each applicant shall establish that neither the individual nor any officer, director, or  
2        proposed employee of the applicant has been convicted of a crime involving  
3        dishonesty, fraud, or breach of trust. A deferred imposition of sentence or federal  
4        pretrial diversion must be considered a conviction for purposes of this section.
- 5        6. Each applicant shall maintain a bond issued by a surety company authorized to  
6        conduct business in this state, in the amount of fifty thousand dollars, and the  
7        commissioner may require a larger bond if the commissioner determines the larger  
8        bond is necessary based on the volume of the applicant's business.
- 9        7. Each application for a license must include:
  - 10       a. An application fee as determined by the commissioner;
  - 11       b. The legal name of the applicant, residence of the applicant, business address of  
12       the applicant, and, if applicable, the address at which earned wage access  
13       service is provided if different from the business address and, if the applicant is a  
14       business entity, the name and address of every member, officer, and director;
  - 15       c. The location at which the registered office of the applicant is located; and
  - 16       d. Any other data or information the commissioner may require with respect to the  
17       applicant and the applicant's directors, officers, members, and shareholders.
- 18       8. The commissioner may establish relationships or contracts with a nationwide  
19       multistate licensing system and registry or other entities designated by a nationwide  
20       multistate licensing system and registry to collect and maintain records and process  
21       transaction fees or other fees related to licensees or other persons subject to the  
22       chapter. The applicant shall pay directly to the nationwide multistate licensing system  
23       any additional fee relating to participation in the nationwide multistate licensing  
24       system.
- 25       9. In connection with an application for licensure as an earned wage access service  
26       provider, or any license renewals, the applicant shall furnish to the nationwide  
27       multistate licensing system information concerning the applicant's identity, which may  
28       include:
  - 29       a. Fingerprints for submission to the federal bureau of investigation and any  
30       governmental agency or entity authorized to receive information for a state,  
31       national, and international criminal history background check;

509/6

- 1           b. Personal history and experience in a form prescribed by the nationwide multistate  
2           licensing system, including the submission of authorization for the nationwide  
3           multistate licensing system and the commissioner to obtain:  
4           (1) An independent credit report obtained from a consumer reporting agency  
5           described in the Fair Credit Reporting Act [15 U.S.C. 1681a]; and  
6           (2) Information related to any administrative, civil, or criminal findings by any  
7           governmental jurisdiction; and  
8           c. Any other documents, information, or evidence the commissioner deems  
9           necessary.  
10       10. The commissioner may use the nationwide multistate licensing system and registry as  
11       a channeling agent for requesting information from and distributing information to the  
12       department of justice or any governmental agency or to any other source.  
13       11. Upon receipt of a completed application, the commissioner shall determine whether  
14       the qualifications prescribed under this chapter are satisfied. The commissioner may  
15       refuse to issue the license if the commissioner finds the financial responsibility,  
16       experience, character, or general fitness of the applicant or any person associated  
17       with the applicant are insufficient to warrant the belief the business will be conducted  
18       honestly, fairly, and efficiently. If the commissioner determines the qualifications are  
19       satisfied and approves the documents, the commissioner shall issue a license to  
20       engage in the earned wage access service business.

21       **Denial of license - Hearing - Notification of change in status.**

- 22       1. If the commissioner determines an applicant is not qualified to receive a license, the  
23       commissioner shall notify the applicant, in writing, stating the application is denied and  
24       stating the basis for denial. If the commissioner denies an application, the applicant  
25       may request a hearing in accordance with chapter 28-32 before the commissioner on  
26       the question of whether the license should be granted. The hearing must be scheduled  
27       within thirty days after receipt of the request. At the hearing, the commissioner shall  
28       reconsider the application and issue a written order granting or denying the  
29       application. If an applicant requests a hearing and the commissioner's denial is  
30       upheld, the commissioner may assess the reasonable out-of-pocket costs incurred for  
31       the hearing to the applicant.

2. Within fifteen days of the occurrence of any of the following events, a licensee shall file a written report with the commissioner describing the event and the event's expected impact on the activities of the licensee:

- a. The filing for bankruptcy or reorganization by the licensee.
- b. The institution of revocation or suspension proceedings against the licensee by any governmental authority.
- c. The filing of any criminal charges involving dishonesty, fraud, or breach of trust of the licensee or any of the licensee's members, directors, officers, or shareholders.
- d. Any other event the commissioner identifies by rule.

**License renewal.**

A license may be renewed upon application, continued qualification for licensure as required in this chapter, and the payment to the commissioner of the annual license fee, which is not subject to refund, before December first of each year. A renewal application may be denied upon the same grounds as would justify denial of an initial application for licensure. When a licensee has been delinquent in renewing the licensee's license, the department may charge an additional fee of fifty dollars for the renewal of the license. An application must be filed within forty-five days from the date change of controlling ownership is completed. For purposes of this section "controlling ownership" means ownership of twenty-five percent or more of voting shares, or the power to appoint the majority of the board of directors. The earned wage access license granted to the previous owner continues in effect to the new purchaser until the application is either granted or denied.

**Exemptions and applicability.**

1. This chapter does not apply to banks, credit unions, or savings and loan associations.
2. Notwithstanding any other provision of law, earned wage access services offered and provided by a provider in accordance with this chapter may not be considered:
  - a. A violation of any law governing deductions from payroll, salary, wages, compensation, or other income or the purchase, sale or assignment of, or an order for earned but unpaid income.
  - b. A loan or other form of credit or debt. The provider may not be considered a creditor, debt collector, or lender.

1           c. Money transmission. The provider may not be considered a money transmitter  
2           with respect to the provision of any earned wage access services.

3       3. Notwithstanding any other provision of law, charges, voluntary tips, gratuities, or other  
4       donations paid in accordance with this chapter to a provider may not be considered  
5       interest or finance charges.

6       4. If there is a conflict between the provisions of this chapter and any other provision of  
7       law, the provisions of this chapter prevail.

8       **Records.**

9       1. Each licensee shall keep and use in the licensee's business any books, accounts, and  
10       records the commissioner may require. A licensee shall preserve required books,  
11       accounts, and records for at least six years. The records of a licensee may be  
12       maintained electronically if the records can be reproduced upon request by the  
13       commissioner and within the time required under this section. When a licensee ceases  
14       operations for any reason, the licensee shall inform the commissioner of the location  
15       of the records. In addition, the licensee shall provide the name of the individual  
16       responsible for maintenance of the records. The licensee shall notify the commissioner  
17       within ten business days of the change of the location of the records or the change of  
18       the individual responsible for maintenance of the records.

19       2. An applicant, licensee, or other person subject to this chapter shall comply with any  
20       request for information, documents, or other records from the commissioner within the  
21       time specified in the request, which must be a minimum of ten days, or, if no time is  
22       specified, within thirty days of receipt of the request by the commissioner. If the  
23       request for information is related to a new application or renewal of an existing  
24       application and is not received by the commissioner within the time specified in the  
25       request, or within thirty days of receipt of the request, the commissioner may deny the  
26       application.

27       **Suspension, nonrenewal, or revocation of license.**

28       1. The commissioner may issue and serve upon any licensee an order suspending or  
29       revoking a license if the commissioner finds the licensee has been convicted of a  
30       felony or any crime involving dishonesty, fraud, or breach of trust, or the licensee  
31       knowingly or through lack of reasonable care:

Sixty-ninth  
Legislative Assembly

- 1       a. Failed to pay the annual license fee imposed under this chapter or any
- 2       examination fee imposed by the commissioner;
- 3       b. Committed any fraud, engaged in any dishonest activities, or made any
- 4       misrepresentations;
- 5       c. Violated this chapter or any rule adopted by the commissioner under this chapter
- 6       or violated any other law in the course of the licensee's business activities as a
- 7       licensee;
- 8       d. Made false statements in the application for the license;
- 9       e. Engaged in any unfair or deceptive acts, practices, or advertising in the conduct
- 10      of an earned wage access business;
- 11      f. Failed to fully cooperate with an examination or investigation authorized by the
- 12      commissioner;
- 13      g. Continued to allow any current or former officer, director, or employee to provide
- 14      earned income access services or participate in any earned income service
- 15      transaction after the officer, director, or employee has been suspended or
- 16      removed by an order issued by the commissioner;
- 17      h. Failed to maintain the required bond;
- 18      i. Failed to maintain any required registration with the secretary of state; or
- 19      j. No longer meets the requirements for licensure under this chapter.
- 20      2. An order issued by the commissioner under this section must contain a notice of
- 21      opportunity for hearing under chapter 28-32.
- 22      3. If a hearing is not requested within twenty business days of the date of service upon
- 23      the licensee, the order becomes final.

24      **Temporary suspension - Appeal.**

- 25      1. If the commissioner determines probable cause exists for the suspension or
- 26      revocation of a license, that enforcement of this chapter requires immediate
- 27      suspension of the license pending investigation, or that probable cause exists to
- 28      indicate the continued operation of a licensee's business may create a significant risk
- 29      of serious and ongoing harm to the public while a disciplinary action is pending, the
- 30      commissioner may, upon written notice to the licensee, issue an ex parte order
- 31      suspending the license.

2. An ex parte order remains in effect until a final order is issued after a full hearing and appeal is conducted in accordance with chapter 28-32 or until the suspension is otherwise terminated by the commissioner. If a hearing is not requested within twenty business days of the date of service of the order upon the licensee, the order becomes final.
3. The commissioner shall conduct a full hearing on the merits of the evidence warranting immediate suspension to determine if disciplinary action must be taken against the licensee.
4. The licensee may appeal the ex parte temporary suspension order before a full hearing is conducted. For purposes of appeal, the district court shall decide whether the commissioner acted reasonably or arbitrarily. The court shall give priority to the appeal for prompt disposition.

**Suspension and removal of earned wage access service provider officers and employees.**

1. The commissioner may issue upon any current or former officer, director, or employee of a licensed business entity, and upon the licensee involved, an order stating:
  - a. That the current or former officer, director, or employee is engaging or has engaged in any of the following conduct:
    - (1) Violation of a law, rule, order, or written agreement with the commissioner;
    - (2) Harassment or abuse, false or misleading representations to the commissioner, or unfair practices; or
    - (3) An act of commission or omission or practice which constitutes breach of trust or a breach of fiduciary duty.
  - b. The term of suspension or removal from employment and participation within the conduct or the affairs of an earned wage access service provider.
2. An order issued by the commissioner under this section must contain a notice of opportunity for hearing under chapter 28-32. The order becomes effective immediately upon issuance on the officer, director, or employee, and remains in effect pending the outcome of a hearing held in accordance with chapter 28-32.
3. If a hearing is not requested within twenty business days of the date the order is served, the order becomes final and the officer, director, or employee must be

1        removed from any further participation in the affairs of, or employment with, the  
2        licensee.

3        4. A contested or default suspension or removal order is effective immediately upon  
4        issuance of the final order on the current or former officer or employee and upon the  
5        licensee. A consent order is effective as agreed upon in the order. Any current or  
6        former officer or employee suspended or removed from employment and participation  
7        within the conduct or the affairs of a licensee under this section is not eligible, while  
8        under suspension or removal, to be employed or otherwise participate in the affairs of  
9        any financial corporation, financial institution, credit union, or any other entity licensed  
10       by the department of financial institutions.

11       5. When a current or former officer or employee or other person participating in the  
12       conduct of the affairs of a licensee is charged with a felony in state or federal court  
13       which involves dishonesty, fraud, or breach of trust, the commissioner may  
14       immediately suspend the individual from office or prohibit the individual from further  
15       participation in the earned wage access service provider affairs, or both. The order is  
16       effective immediately upon issuance of the order on the licensee and the individual  
17       charged and remains in effect until the criminal charge is finally disposed of or until  
18       modified by the commissioner. If a judgment of conviction, federal pretrial diversion, or  
19       similar state order or judgment is entered, the commissioner may order the  
20       suspension or prohibition be made permanent. A finding of not guilty or other  
21       disposition of the charge does not preclude the commissioner from pursuing  
22       administrative or civil remedies.

23       6. The commissioner may deny an application to renew a license if the licensee no  
24       longer meets the criteria for licensure or otherwise fails to comply with this chapter.

25       **Violations - Cease and desist orders - Penalties.**

26       Except as otherwise provided in this chapter, any person that provides earned wage access  
27       services without a license is guilty of a class C felony and any person that violates any other  
28       provision of this chapter or any rule adopted under this chapter is guilty of an infraction. If the  
29       commissioner finds, whether without a hearing or after a hearing if a hearing is requested within  
30       twenty days of notice of an action by the commissioner, a person violated this chapter or any  
31       rule adopted under chapter, the commissioner may:

- 1       1.   Order the person to cease and desist violating this chapter or the rule;
- 2       2.   Require the refund of any charges collected by the person in violation of this chapter;
- 3       or
- 4       3.   Impose a civil penalty not to exceed one hundred thousand dollars per violation upon
- 5       a person that willfully violates a law, rule, written agreement, or order under this
- 6       chapter. An interested party may appeal the assessment of a civil money penalty
- 7       under chapter 28-32 by filing a written notice of appeal within twenty days after service
- 8       of the assessment of civil money penalties. A civil money penalty collected under this
- 9       section must be paid to the state treasurer and deposited in the financial institutions
- 10      regulatory fund.

#### 11      **Investigations and examinations.**

- 12      1.   A licensee shall pay an examination or visitation fee, and the commissioner shall
- 13      charge the licensee for the actual cost of the examination or visitation at an hourly rate
- 14      set by the commissioner which is sufficient to cover all reasonable expenses
- 15      associated with the examination or visitation.
- 16      2.   a.   Except as otherwise provided in Public Law 110-289, section 1512, the
- 17      requirements under any federal law, chapter 44-04, or section 6-01-07.1,
- 18      regarding the privacy or confidentiality of any information or material provided to
- 19      the nationwide multistate licensing system and registry, and any privilege arising
- 20      under federal or state law, including the rules of any federal or state court, with
- 21      respect to the information or material, continue to apply to the information or
- 22      material after the information or material has been disclosed to the nationwide
- 23      multistate licensing system and registry. Any information and material may be
- 24      shared with all state and federal regulatory officials with mortgage industry
- 25      oversight authority without the loss of privilege or the loss of confidentiality
- 26      protections provided by federal law, chapter 44-04, or section 6-01-07.1.
- 27      b.   The commissioner may enter agreements or sharing arrangements with other
- 28      governmental agencies, the conference of state bank supervisors, the American
- 29      association of residential mortgage regulators, or other associations representing
- 30      governmental agencies.

c. Information or material subject to a privilege or confidentiality under this section is not subject to:

- (1) Disclosure under any federal or state law governing the disclosure to the public of information held by an officer or an agency of the federal government or the respective state; or
- (2) Subpoena or discovery, or admission into evidence, in any administrative process, unless with respect to any privilege held by the nationwide multistate licensing system and registry with respect to the information or material, the person to which the information or material pertains waives, in whole or in part, in the discretion of the person, that privilege.

d. The commissioner shall take all necessary steps, under any applicable law or rule, to protect the disclosure of information or material subject to a privilege or confidentiality under this section. Records subject to a privilege or confidentiality may be required to be disclosed only pursuant to an order of the court. The court ordering the disclosure shall issue a protective order to protect the confidential nature of the records.

**Consumer-directed wage access services database.**

1. The commissioner shall administer or authorize the creation or procurement of a database in which each consumer-directed wage access services transaction is recorded.

2. Before entering a consumer-directed wage access service transaction with a consumer, the licensee must submit the transaction, in a manner prescribed by the commissioner, for entry into the database.

3. An earned wage access service provider providing a consumer-directed wage access service may rely on the accuracy of the information contained in the database and may not be subject to an administrative penalty or civil liability arising from reliance on inaccurate information contained in the database.

4. The commissioner shall establish a per transaction fee for submission of transactions into the database payable in a manner prescribed by the commissioner.

5. A licensee may charge the consumer the fee required under subsection 4 unless the consumer elects the no-cost option.

1 6. Employer-integrated wage access services transactions are not required to be  
2 submitted for entry into the database.

3 **Required acts and practices.**

4 A person required to be licensed under this chapter shall:

- 5 1. Develop and implement policies and procedures to respond to questions raised by  
6 consumers and address complaints from consumers in an expedient manner.  
7 2. Offer to the consumer at least one reasonable option to obtain proceeds at no cost to  
8 the consumer and clearly explain how to elect the no-cost option when the person  
9 offers a consumer the option to receive proceeds for a charge or solicits an optional  
10 tip, gratuity, or other donation.  
11 3. Before entering into an agreement with a consumer for the provision of earned wage  
12 access services:  
13 a. Inform the consumer of the consumer's rights under the agreement; and  
14 b. Fully and clearly disclose all charges associated with the earned wage access  
15 services.  
16 4. Submit consumer-directed wage access services transactions to the database.  
17 5. Inform the consumer of any material changes to the terms and conditions of the  
18 earned wage access services before implementing those changes for that consumer.  
19 5.6. Allow the consumer to cancel use of the provider's earned wage access services at  
20 any time, without incurring a cancellation charge imposed by the provider.  
21 6.7. Comply with all applicable local, state, and federal privacy and information security  
22 laws.  
23 7.8. If soliciting, charging, or receiving a tip, gratuity, or other donation from a consumer,  
24 clearly and conspicuously disclose to the consumer immediately before each  
25 transaction that a tip, gratuity, or other donation amount may be zero and is voluntary.  
26 8.9. If soliciting, charging, or receiving a tip, gratuity, or other donation from a consumer,  
27 clearly and conspicuously disclose in its service contract with the consumer and  
28 elsewhere that tips, gratuities, or donations are voluntary and that the offering of  
29 earned wage access services, including the amount of proceeds a consumer is eligible  
30 to request and the frequency with which proceeds are provided to a consumer, is not

contingent on whether the consumer pays a tip, gratuity, or other donation or on the size of the tip, gratuity, or other donation.

9.10. Provide proceeds to a consumer by any means mutually agreed upon by the consumer and the provider.

10.11. If the provider will seek repayment of outstanding proceeds or payment of charges or other amounts owed, including voluntary tips, gratuities, or other donations, in connection with the activities covered by this chapter, from a consumer's account at a depository institution, including by means of electronic fund transfer:

a. Comply with applicable provisions of the Electronic Fund Transfer Act of 1978, [15 U.S.C. 1693-1693r], and regulations adopted under the the Electronic Fund Transfer Act; and

b. Reimburse the consumer for the full amount of any overdraft or nonsufficient funds charges imposed on a consumer by the consumer's depository institution which were caused by the provider attempting to seek payment of any outstanding proceeds, charges, or other payments, in connection with the activities covered by this chapter, including voluntary tips, gratuities, or other donations, on a date before, or in an incorrect amount from, the date or amount disclosed to the consumer. The provider is not subject to the requirements in this subdivision with respect to payments of outstanding proceeds or charges incurred by a consumer through fraudulent or other unlawful means.

**Prohibited acts and practices.**

1. A person required to be licensed under this chapter may not:

a. Make or cause to be made any material false statement or representation in any application or other document or statement required to be filed under any provision of this chapter, or to omit any material statement or fact necessary to make the statements not misleading.

b. Fail to make disclosures as required by this chapter and rules adopted under this chapter.

c. Fail to comply with this chapter or rules adopted under this chapter applicable to any business authorized or conducted under this chapter.

- 1           d. Negligently make a false statement or an omission of material fact in connection
- 2           with any information or reports filed with a governmental agency of this state or
- 3           the nationwide multistate licensing system and registry or in connection with any
- 4           investigation conducted by the commissioner or another governmental agency or
- 5           this state.
- 6           e. Share with an employer a portion of any charges, voluntary tips, gratuities, or
- 7           other donations that were received from or charged to a consumer for earned
- 8           wage access services.
- 9           f. Require a consumer's credit report or a credit score provided or issued by a
- 10           consumer reporting agency to determine a consumer's eligibility for earned wage
- 11           access services.
- 12           g. Accept payment of outstanding proceeds, charges, voluntary tips, gratuities, or
- 13           other donations from a consumer by means of a credit card or charge card.
- 14           h. Charge a consumer a late charge, deferral charge, interest, or any other penalty
- 15           or charge for failure to pay outstanding proceeds, charges, voluntary tips,
- 16           gratuities, or other donations.
- 17           i. Report to a consumer reporting agency or debt collector any information about
- 18           the consumer regarding the inability of the provider to be repaid outstanding
- 19           proceeds, charges, voluntary tips, gratuities, or other donations.
- 20           j. Compel or attempt to compel payment by a consumer of outstanding proceeds,
- 21           charges, voluntary tips, gratuities, or other donations to the provider through:
- 22           (1) A suit against the consumer in a court of competent jurisdiction.
- 23           (2) Use of a third party to pursue collection from the consumer on the provider's
- 24           behalf.
- 25           (3) Sale of outstanding proceeds, charges, voluntary tips, gratuities, or other
- 26           donations to a third-party collector or debt buyer for collection from a
- 27           consumer.
- 28           k. Mislead or deceive a consumer about the voluntary nature of the tips, gratuities,
- 29           or donations or represent the amounts will benefit any specific individuals or
- 30           group of individuals.

1 1. Enter a consumer-directed wage access services transaction with a consumer  
2 who has an aggregate value of all outstanding proceeds from any licensee  
3 exceeding one thousand dollars as displayed in the database.

4 2. The limitations in subdivision j of subsection 1 do not preclude the use by a provider of  
5 any of the methods specified in that subdivision to compel payment of outstanding  
6 proceeds or charges incurred by a consumer through fraudulent or other unlawful  
7 means. The limitations in subdivision j of subsection 1 do not preclude a provider from  
8 pursuing an employer for breach of the employer's contractual obligations to the  
9 provider.

10 **Reporting requirements.**

11 1. A licensee shall file with the commissioner, at a time and in the manner specified by  
12 the commissioner, a report containing data requested by the commissioner. The report  
13 must be filed under oath.

14 2. A licensee may use the database to assist in compiling this information and to confirm  
15 its accuracy.

16 **Regulations and rulings.**

17 The commissioner may adopt rules and regulations, conduct hearings, and make specific  
18 rulings, orders, demands, and findings as may be necessary for the proper conduct of the  
19 business authorized and licensed under and for the enforcement of this chapter.

20 **Operation of existing providers.**

21 1. A provider operating in this state on January 1, 2025, may continue to act as a  
22 provider if the person:

- 23 a. Applies for licensure in accordance with this section within six months of the date  
24 the commissioner makes an application available to potential applicants; and  
25 b. Complies with the requirements of this chapter.

26 2. A person operating in this state on January 1, 2025, may continue to act as a provider  
27 until the commissioner grants or denies the person's application for licensure under  
28 this section.

29 3. A person offering consumer-directed wage access services in this state on January 1,  
30 2025, may continue to act as a provider without the use of the database until the  
31 commissioner determines the database is operational.

**REPORT OF STANDING COMMITTEE  
ENGROSSED HB 1393**

**Industry and Business Committee (Sen. Barta, Chairman)** recommends **AMENDMENTS** ([25.1073.02002](#)) and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT OR EXCUSED AND NOT VOTING). HB 1393 was placed on the Sixth order on the calendar. This bill does not affect workforce development.