



## **Verification of Employee Eligibility: "No-Match" Letters and Fines**

April 25, 2008

Currently, various states and federal agencies have enacted (or will be enacting) laws and regulations requiring every employer to verify the employment eligibility of its workers *upon hire*. These state and federal laws and regulations place responsibility and liability, in the form of significant fines, upon employers who do not take appropriate steps to hire only those workers who are authorized to work in the United States.

**Current State of DHS Regulations:** On August 14, 2007, the Department of Homeland Security (DHS) issued a series of regulations related to the hiring of unauthorized workers. On October 10, 2007, a federal district court in California issued an injunction preventing the DHS from implementing the August 14, 2007 regulations mentioned above. In response, on March 21, 2008, the DHS issued a set of proposed rules in an attempt to address the concerns of the California court. While these rules have not yet been enacted, it is *crucial* for employers to begin taking appropriate steps to verify Social Security Numbers (SSNs) for all newly hired employees.

**Steps to Verify Social Security Numbers:** Client Companies should take *proactive* steps and measures to verify a Member's Social Security Number:

- ★ **NOTE: No Adverse Action Based Solely Upon Initial Non-Confirmation:** If a Member's Social Security Number does not match the SSA's records, a Client Company should not take any adverse action against the Member at that time. This information is not in any way a statement about the employee's immigration status. There are several reasons why a Social Security Number might not match the SSA's records.
  1. **Contact the Social Security Administration (SSA):** The Client Company *must* verify a Member's Social Security Number *immediately* upon hire and *prior* to submitting paperwork to SCI. The Client Company should *either*:
    - Call the SSA at 800.772.6270 to instantly verify up to five (5) Members' SSNs –*or*–
    - Access SSA's website, [www.socialsecurity.gov/employer/ssnv.htm](http://www.socialsecurity.gov/employer/ssnv.htm), where up to ten (10) Members' SSNs can be verified online with immediate results provided.
  2. **The First Five (5) Days:** Within five (5) days of learning of the mismatch (upon checking the Social Security Number at time of hire *or* upon receipt of a "No-Match"\* Letter from the SSA or a "Notice of Suspect Documents" from DHS), the Client Company *should do one or both of the following* to resolve this issue:
    - **Check Your Records:** The Client should *first check its records* to make sure that there have been *no typographical, transcription or other clerical errors* in either the Client Company's records or in its communications with SCI that could account for the alleged discrepancies. If there is such an error, the Client Company should correct its records and contact the Client Service Professional (CSP). SCI will confirm with the SSA whether the Member's corrected information produces a match.
      - *If the SSA subsequently verifies the Member's SSN, SCI will make a record of the manner, date and time of the verification.*
    - **Ask the Member to Verify:** *If all records appear to be in order*, the Client Company should contact the Member in question and confirm with him or her that the employment information given by the Member is correct. For a *sample letter* employers can give to their Members, visit: [www.socialsecurity.gov/employer/sampleltr.doc](http://www.socialsecurity.gov/employer/sampleltr.doc). If the Member verifies the information as correct, the Client Company should ask the Member to contact the SSA to resolve the issue. Once the Member has done so, the Client Company should contact the SSA to confirm the Member's Social Security Number.

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### SCI Operations Centers:

**Atlanta** • 2435 Tech Center Parkway, Lawrenceville, GA 30043 • 800.444.6211  
**Chicago** • 1420 Kensington Rd., Suite 203, Oak Brook, IL 60523 • 800.750.1932    **Dothan** • 220 Healthwest Dr., Suite 3, Dothan, AL 36303 • 800.755.6722  
**Orlando** • 5367 Conroy Rd., Suite 300, Orlando, FL 32811 • 866.370.4211    **Tampa** • 4224 W. Henderson Blvd., Tampa, FL 33629 • 800.932.4610



- *If there is a verified match*, the Client Company should make a record of the manner, date and time of the verification and forward this information to SCI.
  - *If there is still no match after completing steps 1 and 2*, the Client Company should proceed to step 3 to resolve this issue:
- Secondary Assistance from SCI: As a *secondary measure to the Client Company verifying the employee's Social Security Number with the SSA upon hire*, after New Hire paperwork is entered into SCI's Human Resource Information System (HRIS), SCI will report all newly hired Members' Social Security Numbers to the Social Security Administration for verification. If a potential non-confirmation or mismatch has been identified, SCI's system will be flagged, and a CSP will contact the Client Company to assist with guidance on addressing the mismatch with the Member.
3. Set a Deadline for the Member to Correct: If the Member indicates that the records are correct and they match the Member's immigration document or Social Security card, advise the Member to contact the nearest SSA or immigration office to fix the problem. Give the Member a *maximum of 90 days* to correct the problem.
    - Incremental Deadlines: SCI recommends setting *incremental dates* to check on progress with the Member (e.g., 30 days and again at 60 days, prior to the maximum of 90 days.) SCI will also continue to follow up with you at 30 day intervals.
  4. After 90 days: If the discrepancy cannot be resolved within 90 days after hire *or* the date of receipt of a "*No-Match*" Letter, contact SCI for additional guidance.

\***"No-Match" Letters from the SSA**: Every year the SSA, in conjunction with DHS and the United States Department of Justice (DOJ), informs thousands of employers that the Social Security Number an employee has provided on his/her W-4 Form does not match the SSA's records. This information is sent to an employer in a letter entitled "*Employer Correction Request*," more commonly known as a "*No-Match*" Letter. In addition, the DHS may send a "Notice of Suspect Documents". If the Client Company receives a letter from the SSA and/or DHS, the Client Company should follow the instructions in the letter and also provide a copy of the letter to its SCI CSP.

**Fines**: Effective March 27, 2008, the DHS increased the employer fines and penalties contained in already enacted regulations. First time violators who unlawfully employ aliens will now be fined a minimum of \$375 per person and a maximum fine of \$3,200 per person. A second violation raises the minimum fine to \$3,200 per person and the maximum to \$6,500 per person. Further violations raise the minimum fine to \$4,300 per person with a maximum fine of \$16,000 per person. The DHS has indicated that the fines assessed to violators will be more than the minimum to ensure that an employer recognizes the seriousness of the immigration issues.

**Additional Information**: As of this week, a federal district court's injunction continues, and the new DHS regulations, except for the increased fines, are not in effect. As additional information becomes available, SCI will alert Client Companies about any significant changes to the proposed DHS rules as soon as practicable, including any changes to the Social Security Number verification procedures above.

If you have any questions or concerns, please contact your CSP.

Sincerely,

SCI Companies