

One Minute Memo[®]



DHS to Revise No-Match Rule

On Friday, November 23, the Department of Homeland Security (DHS) requested that a federal judge stay the litigation regarding its new Social Security “no match” rule. Rather than proceed with the litigation, DHS plans to revise the rule to address the court’s concerns about the rule’s legality. DHS intends to begin a new rulemaking process in December.

Originally scheduled for an effective date of September 14, 2007, the proposed rule would have required employers who received a “no match” letter from the Social Security Administration (SSA) or Immigration and Customs Enforcement (ICE) to take specific steps to resolve the no match. Under the rule, employers who failed to take those steps would risk a finding that they had “knowingly” hired an unauthorized worker.

In October, the court issued a preliminary injunction that prevented the government from implementing the new rule and stopped the SSA from sending notices to employers informing them of the new rule. The court granted the injunction based on its decision that implementation of the new rule would cause irreparable harm to employers and workers.

Once DHS revises the rule, it is expected to ask the court to vacate the preliminary injunction; DHS will likely have until March to do so. DHS has asked that the lawsuit be suspended until a new final rule is issued or until March 24, 2008, whichever comes first.

For more information regarding the recent history of these new “no match” rules, please visit www.immstar.com and click on “Immigration Updates.”

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