

Form I-9 Compliance Update

Labor & Employment Law Update

By Sara Zorich on August 5, 2015

Green Cards May No Longer Always Contain a "Signature"

Employers should be aware that some Green Cards ("permanent resident cards") now have an image stating "Signature Waived" on the front and back of the card where a signature would normally be located instead of the permanent resident's actual signature. U.S. Citizenship and Immigration Services ("USCIS") has indicated that these cards are issued to people entering the U.S. for the first time as lawful permanent residents after obtaining their immigrant visa abroad from a U.S. Embassy or consulate. This process began in February 2015. The Green Cards are valid documents and acceptable to support an employee's authorization to work in the U.S. Employers should train the employees responsible for the Form I-9 process regarding this change.

EADs Come With Varying Expiration Dates Based on Court Injunction

On February 16, 2015, a federal district court judge in Texas granted a preliminary injunction temporarily blocking the implementation of President Obama's Deferred Action for Parents of Citizens and Lawful Permanent Residents ("DAPA") and the expansion of Deferred Action for Childhood Arrivals ("DACA"). As a result of the injunction, USCIS was ordered to stop issuing 3-year Employment Authorization Documents ("EAD") for DACA recipients and only issue 2-year EADs going forward. Approximately 2,100 3-year EADs, issued after February 16th, were required to be returned to USCIS by July 31st. USCIS has indicated that they have issued 2-year EADs to the 2,100 affected persons. Note, the February 16th injunction DOES NOT affect the approximately 108,000 three-year EADs that were issued PRIOR TO the February 16th injunction going into effect. There continues to be ongoing litigation regarding the implementation of DAPA and the extended DAPA which will affect the period of time in which a DACA recipient may receive an EAD.

Employers should be aware that their employees may present EADs with varying expiration periods. Employers need not keep track of the daily process of the ongoing federal litigation but should train their employees responsible for the Form I-9 process that there is no set expiration date for an EAD and the expiration will vary based on the EAD. Remember, employers are not required to be document experts. During the Form I-9 process, employers are required to accept documents that reasonably appear to be genuine and to relate to the person presenting them. However, if the employee provides a document that does not reasonably appear to be genuine and relate to them during the Form

I-9 process, you must reject that document and ask the employee to present alternate documents that satisfy the requirements of Form I-9.

Form I-9 Compliance Update