



AILA National Office
Suite 300
1331 G Street, NW
Washington, DC 20005

Tel: 202.507.7600
Fax: 202.783.7853

www.aila.org

May 4, 2011

Commissioner Michael J. Astrue
Social Security Administration
Office of the Commissioner
6401 Security Blvd # 900
Baltimore, MD 21235-0001

Dear Commissioner Astrue:

We write to express our concern that the Social Security Administration (SSA) has once again started sending “No-Match” letters that advise employers when an employee is using a Social Security number that does not coincide with SSA’s records. We are especially concerned that these letters will negatively impact on U.S. citizens and lawful immigrant workers as well as U.S. businesses. Given the confusion and misunderstandings created by these letters, we ask that SSA immediately stop its voluntary mailing of no-match employer decentralized correspondence (DECOR) letters to employers.

The American Immigration Lawyers Association (AILA) is a voluntary bar association of more than 11,000 attorneys and law professors practicing, researching, and teaching in the field of immigration and nationality law. Our mission includes the advancement of the law pertaining to immigration and nationality, and the facilitation of justice in the field.

In 2007, SSA stopped sending DECOR letters to employers after receiving significant criticism about the practice and resulting federal court litigation against both SSA and the Department of Homeland Security. On August 10, 2007, AILA issued a statement opposing these practices on the grounds that they would harm both employers and workers and foster discriminatory practices by employers. Kathleen Campbell Walker, president of AILA at the time, stated:

It is unrealistic to expect employers to be able to jump through these hoops in the timeframe provided, and unfair for an employee to face potential termination as a result of these delays. Imagine the economic chaos this would cause. It would worsen worker shortages across industries such as agriculture, hospitality, and construction and unleash a flood of misery upon employers and their employees alike.

More than three years later, the fundamental problems with SSA sending DECOR letters to employers have not been addressed. Yet, on April 6, 2011 you issued a directive for SSA to resume the practice. SSA is now sending an employee version of the DECOR letter to the employer if the name and/or social

security number listed on the Form W-2 submitted by the employer does not match the information in the SSA database.

We recognize that the legitimate purpose of the employer no-match letter program is to assist SSA in keeping its databases accurate so that employees receive proper credit for their earnings. Unfortunately, notwithstanding the language in these letters attempting to explain the implications that should and should not be derived from receipt of such letter, there is a lack of understanding among employers and employees about the program's purposes and remedy procedures. The collateral damage created by these misunderstandings far outweigh any benefit there might be in cleaning up databases. The DECOR letters will place unwarranted pressure on employers to take potentially unnecessary actions in response to the letter. For instance, some employers mistakenly assume that a no-match letter provides information about an employee's immigration status, and have been known to terminate or demote employees without giving them a chance to correct discrepancies.

AILA's verification and documentation experts have pointed out to SSA that there are many unanswered questions that should have been resolved before SSA began sending DECOR letters. Most important, AILA is concerned that there are inadequate protocols and procedural safeguards to ensure that employers and employees are not unnecessarily burdened or harmed as a result of the issuance of a DECOR letter. For example, it appears that SSA guidelines for the resolution of mismatches are inconsistent and may not give adequate time to resolve discrepancies. SSA's re-initiation of the DECOR letters also do not seem to be coordinated with other agencies, such as the Internal Revenue Service, the Office of Special Counsel in the Department of Justice (OSC), or Immigration and Customs Enforcement.

Ultimately, correcting SSA records is the responsibility of employees, not employers; SSA's goal of getting workers to correct earnings records is not improved by employer involvement in the process, and in fact, is made worse in many cases. Again, given the harm that issuance of DECOR no-match letters creates for both workers and business and the fact that SSA is under no mandate to send them, we recommend you terminate their use immediately.

Thank you for your consideration of this important matter. If you have any questions or concerns, please contact Bob Sakaniwa, AILA's Associate Director of Advocacy, 202/507-7642, bsakaniwa@aila.org.

Sincerely,



David Leopold
President



Crystal Williams
Executive Director