



Employer Lynx, Inc.®

The Lynx Link

Fall 2007

Vol. 5, No. 2

New Products to Better Serve You and More to Come

The fourth quarter of the year is an important time for Employer Lynx and our members. We review our services, product requests, updated federal and state regulations and new screening elements that will benefit our growing client list. This is always an ongoing process, and changes for your benefit are of utmost importance, especially at this time of year when many companies have budgets to address and added requirements and expectations to be met in the new year. We always encourage your input. If you have suggestions, don't hesitate to contact Doug Moser, Lori Wildman or myself.

Legal right-to-work a Hot Issue and we're responding

The hot issue this year has been immigration and legal right-to-work documentation. In response we have added an Employer Lynx web-based Form I-9 Compliance and Legal Right to Work verification system. There may be many changes coming in 2008 concerning documentation and

background check. Contact Lori if you have questions about this service or want to change from fax to email retrieval of your results.

We have also addressed and adjusted to trucking industry requests concerning CDL/DOT pre-employment and yearly driver requirements. Other programs have been put in place or are in the developmental stage to meet governmental and specific industry-

"Other programs have been put in place or are in the developmental stage to meet governmental and specific industry-related regulations and issues."

employer requirements pertaining to this complex matter that will affect all businesses, so we will keep a close watch as new developments come up.

Introduced as a result of your requests, the majority of our clients are now using our secure web-based delivery system for receiving screening results. This is a superior tool that enables you to follow the progress of each screening request on a daily basis. If you are still using the fax method of transmittal and receipt of screening results, I highly recommend you consider the electronic method. It is far superior to fax and gives you immediate access into the status of your reports. It also gives you insight into why a report is not complete within the preferred three-day time line. You will usually note that it has to do with waiting on results of a criminal

related regulations and issues.

In the year 2008 we will be using the web, email and newsletter communications to provide you updated information and especially focus on the FCRA and other state and federal issues. Your input will be important, too, and we want to hear from you.

I truly believe in the motto, "Every person is entitled to a job, but not every job fits every person." Those of you in human resources and risk management have many responsibilities in making this decision. I want to thank you for your trust and confidence in Employer Lynx. We realize that the background screening process is a serious, necessary and time-consuming process, and we strive to be an important asset and partner to all our members no matter what their size or industry.



Employer Lynx, Inc.®

License 793

The Lynx Link is published quarterly. Questions for the staff are invited.

K.J. Smith, CEO/President
Lori Wildman, Operations Supervisor
Doug Moser, Director of Business/Marketing
Brenda Clayton, Senior Office Assistant
Carolyn Dana, Office Assistant
Sandra Morris, Office Assistant
Jennifer Baxter, Office Assistant

Address: 501 East Caroline Street
Carson City, NV 89701
Phone: 775.883.3733
Fax: 775.883.8755
Toll Free: 800-909-5969
www.employerlynx.com

**Background investigations and screening
are our only business.**



"No Match" Notifications from the Social Security Administration

What do you do when you receive a "no match" letter from the Social Security Administration? It can be intimidating and confusing. However, the Department of Homeland Security (DHS) has implemented a safe harbor procedure that can protect you if you take immediate action upon receipt of a "no match" notification.

The DHS has implemented a new rule that, if followed, will permit employers to avoid potential criminal and civil fines and sanctions and avoid having the "no match" letter used as evidence that the employer had constructive knowledge that the employee was not authorized to work in the United States. This safe harbor rule is in effect now, and in the event of a "no match" letter, employers can take advantage of it by following these procedures:

- **Determine whether the error was** simply typographical or clerical in nature (i.e., an employer record keeping error). If it is a typographical error, the employer can update its records, including the I-9 form, and notify Social Security within 30 days of the correct information.
- **If the above does not resolve the** issue, have the employee confirm that the Social Security number the employee provided is correct. If the employee identifies an employer record keeping error, proceed as outlined above. If the employee insists the number is correct and there is no employer error, inform the employee that he/she will need to pursue the matter with the relevant agency, most likely Social Security, to resolve the matter. The employer should have this conversation with the employee within 30 days of receipt of the "no

match" letter.

- **The employee has 90 days from the** employer's receipt of the "no match" letter to resolve the discrepancy with Social Security and should be advised as such. Therefore, the sooner you talk with employees upon receipt of the letter, the more time they have to clear up the problem. If the employee is able to resolve the matter with Social

Security, the employer is deemed to not have constructive knowledge that the employee is not authorized to work unless the employer has other knowledge unrelated to the Social Security number issue. In the event the matter is successfully resolved, employers should be sure to follow instructions on the "no match" letter

Q & A continued on page 3

Compliance Tips by the Nevada Motor Transport Association

Did you know that many United States Department of Transportation (USDOT) regulations include Interpretations? Interpretations are based upon questions that have been submitted to the USDOT asking for clarification concerning a certain point in a regulation. The official answer to the question is labeled an Interpretation, and the Interpretation can clarify an issue in the regulation.

The Regulation (refer to the USDOT regulations for the entire text): §391.25 Annual inquiry and review of driving record.

- (a) Except as provided in subpart G of this part, each motor carrier shall, at least once every 12 months, make an inquiry into the driving record of each driver it employs, covering at least the preceding 12 months, to the appropriate agency of every State in which the driver held a commercial motor vehicle operator's license or permit during the time period.

There are four interpretations attached to this regulation. The following interpretation deals with the official driving record.

Interpretation:

Question 3: May motor carriers use third parties* to ask State agencies for copies of driving records to be examined during the carrier's annual review of each driver's record?

Guidance: Yes. Although an examination of the official driving record maintained by the State is *not* required during the annual review, motor carriers that choose to do so may use third-party agents, such as driver information services or companies, to obtain the information. However, the motor carrier is responsible for ensuring the information is accurate.

The USDOT/FMCSA regulations and interpretations are available from NMTA. Please call 775.673.6111. – Tim Africa, Industry Relations Director

*Employer Lynx, Inc. can provide stand-alone drivers license records from any state, accepted by USDOT, for pre-employment screening as well as yearly driver requirements.



"No Match" Notifications

continued from page 2

and update using the Social Security Number Verification Service (SSNVS)

- **If the employee is unable to resolve the matter with Social Security within** the 90-day time frame, the employer has an additional three days to require the employee to complete a new Form I-9 using the same procedure as if the employee were a new hire, except that the employer may not accept the disputed Social Security card or any document with the disputed Social Security number as evidence of identity or work authorization. The employee must present at least one document with a photograph. The employer should retain both the new and the old Form I-9.

If an employee is unable to present the required documentation for the Form I-9, the employer must terminate the employee or risk forfeiting the safe harbor. This means the DHS could infer that the employer had constructive knowledge that the employee was not authorized to work in the United States. A similar procedure will apply should the employer receive notice from DHS concerning an issue with an employee's immigration status document or employment authorization document.

In addition to the above rule, DHS has indicated that it plans to, in the coming months, revise the Form I-9 to reduce the number of documents that an employer can accept in order to establish identity and work authorization. Under the new safe harbor rule, continuing to employ an employee after receipt of a "no match" letter could be viewed as constructive knowledge that the employee is illegal.

DHS also plans to raise fines by approximately 25 percent on employers who continue to employ workers that they know are illegal. The agency wants to raise the fines so that employers no longer view them as just a cost of doing business. Currently, fines range from \$275 – \$2,200 per worker for the first violation, with criminal penalties also a possibility.

Legal Terminology Defined – Part 1

You hear the terms and possibly view some of them on criminal history background results—legal terminology that may not be completely understood. The following explanations and definitions are not all-inclusive by any means, but these are some of the more common terms that may show up on an employment screening or background investigation ... and your favorite television drama.

Acquittal - The legal and formal certification of the innocence of a person who has been charged with a crime; a deliverance of or setting free a person from a charge of guilt; finding of

not guilty.

Arraignment – Procedure whereby the accused is brought before the court to plead to the criminal charge against him or her in the indictment of information.

Conviction – The result of a criminal trial, which ends in a judgment or sentence that the accused is guilty as charged.

Criminal Complaint – In criminal law, a charge, preferred before a magistrate having jurisdiction, that a person named has committed a specific offense with an offer to prove the fact to the end that a prosecution may be instituted.

Criminal Plea – The defendant's response to a criminal charge (guilty, not guilty, or nolo contendere).

Defendant – The party against whom relief or recovery is sought or the accused in a criminal case.

Discovery – The pre-trial devices that can be used by one party to obtain facts and information about the case from the other party in order to assist the party's preparation for trial.

Dismissal – An order of judgment finally disposing of an action, suit, motion, etc., without trial of the issues involved.

Dismissal without prejudice – Term meaning dismissal without prejudice to the right of the complainant to sue again on the same cause of action.

Dismissal with prejudice – Term meaning adjudication on the merits, and final disposition, barring the right of the complainant to bring or maintain an action on the same claim or cause.

Evidence – Any species of proof or probative matter, legally presented at the trial of an issue, by the act of the parties and through the medium of witnesses, records, documents, exhibits, concrete objects, for the purpose of inducing belief in the minds of the court or jury as to their contention.

Expungement of record – Process by which record of criminal conviction is destroyed or sealed after expiration of time.

Felony – A crime of a graver or more serious nature than those designated as misdemeanors.

Judgment of conviction – A judgment conviction shall set forth the plea, the verdict or findings, and the adjudication and sentence.

Misdemeanor – Offenses lower than felonies and generally those punishable by fine, penalty, forfeiture or imprisonment other than in a penitentiary.

Find more definitions in the next issue of the Lynx Link.

Reference: *Black's Law Dictionary, Sixth Edition, by Henry Campbell Black, published St. Paul, MN, West Publishing Co, 1990*

Final Thoughts

I Bet You've Been Wondering...

Are your forms current?!

Are your forms copied over so many times that they are hard to read? Don't forget – you can go to our website, www.employerlynx.com, and get new copies. However, you must have a user name and password. If you do not have one, please call our office at 775-883-3733 and we will get one for you. This information is located in a different place than your employment background screening reports.

Why do I receive a second notification on a completed report?

If you get another email notification on a completed report, please review this report. It is because something on the report has been updated. We may have received an employment verification that was originally a "no response," or another service was added after the original request. Please take time to review the latest report.

www.employerlynx.com
775-883-3733
Carson City, NV 89701
501 East Caroline Street
Employer Lynx, Inc.®



Employer Lynx, Inc.®