

HR Focus

September 2017

HR corner

Are you keeping up with the IRS Form I-9 changes?

By: **Leann Hoene**

Senior HR Consultant, HR Partner

The IRS continues to change Form I-9, and it's time to retire the old version from November 2016. This latest update, along with increased audits and fines, brings to mind Ben Franklin's saying "When you're finished changing, you're finished." In other words, this is a change you cannot afford to put off. In the last two years, a company was fined more than \$600,000 for failure to complete its I-9 forms correctly.

Make sure you are using the correct form prior to submission. As of September 18 this year, the only form that will be acceptable is the July 17, 2017 form. Check your forms now and begin training any staff that completes Section 2 to ensure compliance.

Here are proposed U.S. Immigration and Citizenship Services (USCIS) changes to the instructions of the I-9 Form:

- Office of Special Counsel for Immigration-Related Unfair Employment Practices has been changed to *Immigrant and Employee Rights Section*
- The wording "the end of" was removed from the phrase "the first day of employment"



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Most changes were made to the list of acceptable Documents:

- The Consular Report of Birth Abroad (Form FS-240) was added to List C.
- All the certifications of report of birth issued by the Department of State (Form FS-545, Form DS-1350, and Form FS-240) were combined into selection C #2.
- All List C documents were renumbered, except the Social Security card.

While these are minor changes, awareness is critical to ensure compliance, and will keep you from facing fines if audited. USCIS lists these [common errors](#) that you should note:

Employee does not:

- Enter name, other last names used (such as maiden name), address or date of birth
- Sign nor date the attestation
- Complete Section 1 by the first day of employment/date of hire
- Check appropriate boxes (along with Preparer)
- Translators do not complete their information correctly

Employer does not:

- Enter the employee's information fully in Section 2 and/or 3
- Enter acceptable List A document or acceptable List B and List C documents on the form
- Enter the document title, issuing authority, number(s) or expiration date for the documentation presented
- Enter its business title, name or address
- Enter the date employment began (date of hire)
- Sign, date or enter his or her information, along with that of the employer's authorized representative
- Complete Section 2 by the third business day after the date the employee is hired
- Enter the date of rehire, if applicable
- Enter the employee's new name, if applicable
- Complete Section 3 until after the employee's work authorization has expired.

What to expect from an inspection

Several government entities have the right to inspect your I-9 forms. You could receive notice of inspection from the Department of Labor, the Immigrant and Employee Rights Section, the Department of Homeland Security or the Department of Justice. More auditing agencies means an increase in audits. An inspection is initiated by a Notice of Inspection (NOI). Delivered in person or by mail, the NOI gives you with three days to prepare. The NOI will specify what is to be inspected. Along with your I-9s, they may want to inspect your payroll (as much as three years prior).

What to do now

Take advantage of this time by getting your documents in order. If you store your I-9 forms electronically, you should print and review them. Consider doing a self-audit if you have not done one in last few years to minimize your risk.

Here is a great resource on how to correct mistakes when you find them: <https://www.uscis.gov/i-9-central/complete-correct-form-i-9/correcting-form-i-9> To learn more about storage and retention or the fines that can be imposed (which can range from \$110 to \$16,000 each violation), see this earlier HR Focus article: *Where is the employment eligibility verification Form I-9.* http://www.willis.com/Client_Solutions/Services/Employee_Benefits/Publications/



Health management

Weighing in on workplace weight management

By: **Brittany Clarke**, MS, MCHES, Mid-Market Health Management Practice Coordinator/Resource Assistant

Medical costs continue to increase and more employers are looking for specific interventions to reduce this trend. According to the Willis Towers Watson *2017 Best Practices in Health Care Employer Survey*, employers expect health care costs to increase by 5.5% in 2018, up from a 4.6% increase in 2017! In conjunction with the threat of rising health care costs, employers are weighed down by rising rates of obesity (70%), sedentary lifestyles (61%) and poor nutrition (50%) in the workforce.²

Given the continued cost pressures and prevalence of obesity among employees across industries and regions, weight management and nutrition programs remain a topic of conversation and consideration for employers. In fact, 81% of employers offer a weight management program, 64% sponsor fitness challenges, 36% sponsor the use of wearable tracking devices, and 27% incent the use of a weight management program.²

Achieving and maintaining a healthy weight is important to an individual's overall health. Being overweight can lead to serious health problems, affecting both the employee's well-being and the company's health care costs. One study found that the workers' compensation claims, probability of disability, and the number of days missed to any cause increase with a BMI over 25, and morbidly obese employees can cost employers an additional \$4,000 per year.³

If employers are to help lessen the toll that obesity can take, it's essential that they implement a strong, well-rounded health management strategy. Weight management is a good place to start. Here are ideas for activities and programs to encourage employees as they work to achieve and maintain a healthy lifestyle.

Nutrition

As a company, you can take several measures to support healthy eating habits.

- Stock vending machines with healthy options. Replace sugary beverages with water, fruit juice and vegetable juice. Replace unhealthy snacks with pretzels, fresh fruit, low-fat popcorn and other nutritious options.

- Provide healthy meals with fresh fruits and vegetables, low-fat proteins and whole grains in your cafeteria and at catered events, conferences and meetings.
- Price non-nutritious options at a higher cost to encourage consumption of healthier choices.
- Label foods in the vending machines and cafeterias to show serving size and nutritional content.
- Offer employees the opportunity to purchase locally grown fruit and vegetables at the workplace. (This could be a workplace farmers market or a community supported agriculture drop-off point.)
- Ensure space, facilities, and equipment are adequate to support employees who want to bring their own healthy meals to work.

Physical Activity

Physical activity burns calories, which is necessary for weight loss. You can implement a variety of initiatives to encourage employees to be physically active during the workday and at home.

- Install bicycle racks in convenient, accessible locations to encourage bicycling to work. Consider sponsoring a "bike to work" day and reward employees who participate. Small lockers are also helpful for employees who want to bring a change of clothes and shoes.
- Post motivational signs near elevators to encourage employees to take the stairs instead.
- Create recreational company sports teams or walking clubs, or organize a company-sponsored team for a local run or walk event to help make exercise more fun.
- Provide on-site fitness equipment, offer standing desks or build walking trails near the building for employees to use. If on-site fitness is not an option, offer discounted memberships to local fitness centers instead.
- Instead of sitting down for meetings, host walk-and-talk meetings when it is nice outside.

Sources:

1 Willis Towers Watson 2017 Best Practices in Health Care Employer Survey Overview Press Release

2 Willis Towers Watson 2015/2016 Staying@Work United States Research Findings

3 Van Nuys K, Globe D, Ng-Mak D, et al. The association between employee obesity and employer costs: evidence from a panel of U.S. employers. *Am J Health Promotion*. 2014; 28(5):277-285.

Support

Adopting better eating and exercise habits requires a commitment and lifestyle change on the part of your employees. Use the following strategies to support your employees' healthy lifestyle efforts.

- Create a support group that meets weekly or an online forum where employees can encourage each other and share advice.
- Design activities that feature partners or teams to encourage accountability and peer support.
- Offer flexible work hours and breaks to enable employees to develop healthier, more active lifestyles.
- Encourage family participation and support, to help provide motivation at home and establish healthy family habits.

It's also important for upper and middle management to support any health management initiative. In addition, programs should be personalized, include a range of health and well-being activities, and include user-friendly tools to help employees make smart health-related choices.

Encouraging employees to live healthy lifestyles can help lower your company's health care costs. Focus on implementing initiatives that support exercise and nutrition to keep your employees healthy.

Medical costs continue to increase and more employers are looking for specific interventions to reduce this trend.

According to the Willis Towers Watson *2017 Best Practices in Health Care Employer Survey*, employers expect health care costs to increase by 5.5% in 2018, up from a 4.6% increase in 2017.¹



Legal and compliance

IRS addresses ACA compliance

Congressional efforts to repeal the Patient Protection and Affordable Care Act (ACA) have been in a constant state of flux over the last several months. According to the Internal Revenue Service (IRS), however, compliance with the ACA's mandates continues until existing law is changed by Congress. The IRS recently issued information letters specifically addressing the employer shared responsibility (pay or play) mandate. The IRS clearly provides that employers should continue to comply with the existing ACA requirements until there is relief from new legislation by Congress or the IRS in future guidance.

Background

Under the ACA's employer shared responsibility mandate, applicable large employer (ALE) members must offer minimum essential coverage (MEC) to their full-time employees (average 30 hours or more per week), and the coverage must be affordable and provide minimum value, or pay a corresponding penalty. An ALE member is an employer who employs on average at least 50 full-time employees or full-time employee equivalents on business days during the prior calendar year.

Information letters

In information letters [2017-0010](#) and [2017-0013](#), the IRS addressed the employer shared responsibility mandate and stated that there is no provision in the statute that provides for the waiver of its requirements. The IRS also discussed President Trump's [Executive Order Minimizing the Economic Burden of the Patient Protection and Affordable Care Act Pending Repeal](#) dated January 20, 2017 (the Executive Order), and stated that the Executive Order doesn't change existing law. Rather, it merely directs agencies to exercise their permitted authority to reduce potential burdens. As a result, the ACA legislative provisions, including the employer shared responsibility mandate and the imposition of penalties for failing to comply with it, remain in force until changed by Congress. This means that an ALE member is still subject to an employer mandate payment if it fails to offer coverage to a sufficient percentage of its full-time employees, or if the coverage it offers is not affordable or does not provide minimum value, and a full-time employee receives a premium tax credit for coverage on the public exchange.



MLR rebate reminder

Insured employer group medical plans (but not self-funded plans) may have recently received (or will soon receive) medical loss ratio (MLR) rebates from their insurers if the insurers spent less than 85% (80% in the small group market — as determined by the states but in all cases fewer than 100 covered lives) of the premium dollars collected for their group of policies on medical expenses. Those insurers must send rebates to individuals and employers by September 30.

Carriers first began distributing MLR rebates in 2011 and unfortunately this raised a number of issues for the employers who received them. For employers receiving a rebate this year, a brief discussion of the ERISA concerns is provided below.

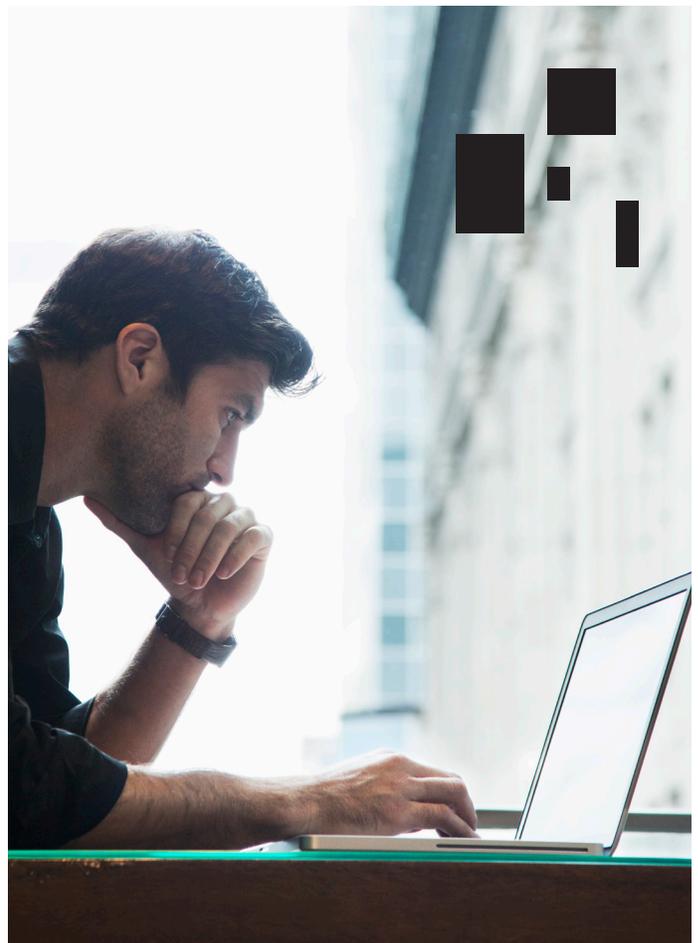
Employer-sponsored plans and ERISA

The Patient Protection and Affordable Care Act requires health insurance issuers to provide rebates to enrollees when their spending for the benefit of policyholders (on reimbursement for clinical services and activities for improving health care quality) in relation to the premiums charged (as adjusted for taxes) is less than the MLR standards established pursuant to the statute. Rebates are based upon aggregated market data in each state and not upon a particular group health plan's experience. While that is a requirement at the insurance company level (note that this requirement is *not* applicable to self-funded plans, even those with stop-loss coverage), the rebates will be sent to the employers sponsoring the plans, and the Department of Labor has established rules that apply to the manner in which employers can or must allocate those rebates. When rebates are issued to employer plans, issues concerning the status of such funds under ERISA, and how such funds must be handled, necessarily arise.

Employers will need to determine how much, if any, of the rebate they can retain, use for plan operations or return to plan participants. Employers are plan fiduciaries and therefore must make prudent determinations in the best interests of the plan participants and beneficiaries. Many employers will take a conservative view and distribute the rebates to plan participants in proportion to the amount that they paid for their coverage, and some may even choose to distribute the entire rebate to plan participants, even if that is not mandated.

There are methods for employers who would prefer to use those funds for plan operations or other purposes. While that may be an option for some employers in some situations, the conservative option is to reallocate those funds to the plan participants. In the event that they prefer to use the funds in another way, employers should consult legal counsel to make certain they are comfortable with that option.

For more information on the MLR rebate and issues for employer-sponsored plans, please see ["My Plan is Getting a Rebate from the Insurer - What Do I Do With It?"](#)



Communications

Evolve your communications (so your employees will read them!)

By: **Jenny Theirl**, Senior Communication Consultant, Value-Added Services Communication Team

Advances in technology and communications go hand-in-hand. The use of technology continues to expand and eventually will be universal. According to the [Pew Research Center](#), nearly 90% of Americans are online and roughly 77% own a smartphone. Even if you think your workforce is not tech savvy, there is a good chance employees are consuming information online.

With increased use of the Internet, email, social media and texting, it is easier than ever to reach people online. While this presents new ways to deliver employee communications, it does not come without challenges. As technologies evolve, communications must as well.

Your own habits are a good barometer

Think about your own reading habits. If you still read magazines, when is the last time you read an article word for word? What about online articles? Has the way you read articles changed over the last 10 years? For me, the answer is a resounding “yes.” Not only do I consume almost all content online, rarely do I read every word unless it’s a book — and even then, I tend to skim.

Why is that? First, life is busy. I am pressed for time between work, family and anything else I try to fit in between. If you’re like me, there is information coming at you from every direction. While this “information overload” can be overwhelming, it also makes it easier to stay current on events and other areas of interest (for example, that latest pair of shoes you looked at online).

How does this relate to employee communications?

We work hard on those employees communications, and we expect employees to read every word. The truth is, they don’t. And when employees don’t “get it” or take the action we want, we are tempted to provide more information. The better option is to provide short, sound-bite information that is to the point.



What Web analytics tell us about content

Website visitors typically stay on pages for just a [minute or two](#). If you are sending communications via email or posting on your intranet, you’ve got a minute or two to get your point across. How do you make that happen? Try these three writing techniques for online audiences.

1. Give people what they expect

Use a headline that matches your content or people will quickly move on. For an email, the subject line is as important as the headline and will determine whether your email is even opened. These can be descriptive or enticing, depending on the message.

2. Cut to the chase

Assume your reader is in a hurry — most people are. Make it easy for the reader to scan content to quickly get the gist of the message. You’re not limited to a 140-character tweet, but you want to keep the message brief. Eye-tracking research has shown that people scan online content in the [pattern of the letter “F.”](#) Keep these tips in mind to make it easier to pull out key pieces of information:

- Break up your paragraphs using subheads or bullets.
- Use bold to call out key points, but use it sparingly.
- If you want to include more information, include links to additional documents or online resources.

3. Say it once and say it well

You have probably heard the saying that to get your message through, you need share it seven times in seven ways. Often, I see communications where the writer attempts to do that in just one communication piece, which is confusing. Break through by using a variety of communication channels and crafting the messaging in the way that’s most appropriate for that communication, not repeating the same content. Focus on clearly stating the key message once and reinforcing it in a call-to-action at the end.

You probably didn’t read this whole article, and that’s okay. I hope you were able to scan through it and get the point. As communications are presented on a screen, changing the way you craft messages is key. That’s not to say that electronic communications are the only method to get your message across. Other methods, like print and on-site communications, are still useful. Keep in mind that in all communications, now more than ever, getting quickly to the point is critical.

For more information, contact your local Willis Towers Watson office.

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