Engage PEO Client Alert

Virtual I-9 Procedure for Remote Workers Extended to July 31, 2023

What's New: The Department of Homeland Security (DHS) has again extended the date that exempts employers from physical inspection of the Employment Eligibility Verification (Form I-9).

Why It Matters: Employers with employees who work exclusively in a remote setting due to COVID-19 precautions **can continue to verify I-9 documents via video feed, fax, or email submission, until July 31, 2023**.

Engage has prepared the following Frequently Asked Questions.

What is the virtual I-9 policy established by DHS?
On March 20, 2020, DHS announced that it would relax its rules related to the physical presence requirement associated with Employment Eligibility Verification (completion of Form I-9). In response to the COVID-19 pandemic, DHS began allowing employers to review employee identity and employment authorization documents virtually (via video feed, fax, or email submission).

When will this rule exception expire?
This rule exception has been extended several times since its inception and now expires on July 31, 2023.

How should employers complete the virtual I-9 process?
Employers should collect and inspect an employee's I-9 verification documents within three days of the employee's hire date. Once the documents have been physically inspected, the employer should add "documents physically examined" with the inspection date to the Section 2 additional information field on the Form I-9, or to section 3 as appropriate. Additionally, employers should enter "COVID-19" as the reason for the physical inspection delay in Section 2 Additional Information field once physical inspection takes place after normal operations resume.

Which employees require physical examination vs. virtual examination of the I-9 documents?
As of April 1, 2021, the requirement that employers inspect employees' Form I-9 identity and employment eligibility documentation in-person applies only to those employees who physically report to work at a company location on any regular, consistent, or predictable basis. Employees who work remotely are exempt from the physical inspection requirement until they undertake non-remote work on a consistent, predictable basis.

Are employers required to keep any special records to comply with this process?
Employers must provide written documentation of their remote onboarding and telework policy for each employee.

Where can I find additional information concerning this exemption and any future extensions?
Additional information about the special exemption can be found here. Information about past and future extensions of the exemption can be found here.