



# Office of Civilian Human Resources CG-121

## Extension of Benefits to Married Gay and Lesbian Employees

Section 3 of the Defense of Marriage Act (DOMA) provided that, when used in a Federal law, the term “marriage” would mean only a legal union between one man and one woman as husband and wife, and that the term “spouse” referred only to a person of the opposite sex who is a husband or a wife. Because of DOMA, the Federal government has been prohibited from recognizing the legal marriages of same-sex couples for purposes of Federal benefit programs.

On June 26, 2013, the Supreme Court ruled that Section 3 of DOMA is unconstitutional. As a result of this decision, the United States Office of Personnel Management (OPM) and other Federal agencies are now able to extend benefits to legally married same-sex spouses of Federal employees and annuitants.

On July 3, 2013, OPM issued [Benefits Administration Letter 13-203](#) to provide information to assist agencies in implementing this change and counseling employees. Highlights from the BAL are provided below.

- **General Information:**

- Because existing same-sex marriages were not recognized by the Federal government before this Supreme Court decision, all legal same-sex marriages that predate the decision are being treated as new marriages; **enrollees will have 60 days from June 26, 2013 (i.e., until August 26, 2013) for enrollment actions.**
- Benefits coverage is now available to a legally married same-sex spouse of a Federal employee or annuitant, regardless of the employee’s or annuitant’s state of residency.
- Legal same-sex marriages entered into following this decision will be treated in the same manner as opposite-sex marriages, regardless of an employee’s or annuitant’s state of residency.
- From this point forward, the word “spouse” in any OPM documentation pertaining to the programs discussed in this BAL refers to both same and opposite-sex spouses, the word “marriage” refers to both same and opposite-sex marriages, and the word “child” refers to children of both same and opposite-sex marriages. If there is a need to differentiate between same and opposite-sex spouses, their marriages or child(ren), OPM will do so explicitly.
- The Supreme Court’s decision addressed the constitutionality of a statute that defined “marriage” and “spouse” for purposes of federal law to include only opposite-sex couples. Therefore, same-sex couples who are in a civil union or other forms of domestic partnership other than marriage will remain ineligible for most Federal benefits programs. There is no change to the benefits OPM has extended, to the extent permissible under the law, to same-sex domestic partners. The Federal Long Term Care Insurance Program regulations allow those individuals who satisfy the domestic partnership standard to be treated as qualifying relatives for Federal/postal employees and annuitants.

- **Federal Employees Health Benefits (FEHB)**
  - As a result of the Supreme Court's decision, legally married same-sex spouses will now be eligible family members under a Self and Family enrollment. In addition, the children of same-sex marriages will be treated in the same manner as those of opposite-sex marriages and will be eligible family members according to the same eligibility guidelines. This includes coverage for children of same-sex spouses as stepchildren.
  - Employees and annuitants will have from June 26, 2013, until August 26, 2013, to make changes to their FEHB enrollment.
  - **If an enrollee currently has a Self and Family enrollment**, his/her newly eligible spouse or child(ren) will be automatically covered as of June 26, 2013. Enrollees should notify their FEHB Program plan carrier about their newly eligible spouse and child(ren). Enrollees do NOT need to complete an SF 2809. Just like any other newly eligible family member, carriers may ask for documentation, such as a valid marriage license, to confirm eligibility, but carriers have been instructed to follow the same procedures they currently follow when adding a spouse or child to a Self and Family enrollment.
  - **If an enrollee currently has a Self Only enrollment** and would like to change to a Self and Family enrollment in order to add his/her same-sex spouse or newly eligible child(ren), he/she must do so by August 26, 2013.
  - **If an employee is not currently enrolled in the FEHB Program** and would like to enroll in a Self and Family plan to cover his/her newly eligible family members, he/she must do so by August 26, 2013.
  - Please contact your servicing human resources office if you have questions or need additional information on your FEHB benefit coverage or election opportunities.
  
- **Federal Employees Group Life Insurance (FEGLI)**
  - Legally married same-sex spouses and children of legal same-sex marriages are now eligible family members under the FEGLI Program. This means that same-sex spouses and children of same-sex marriages are covered under Option C life insurance and the order of precedence in the same manner as opposite-sex spouses and children of opposite-sex marriages.
  - **If an employee or annuitant has enrolled in Option C coverage**, a legally married same-sex spouse is automatically covered under the existing enrollment.
  - **If an employee does not have Option C and wishes to elect it or to increase his/her number of multiples to cover newly eligible family members**, he/she must do so by August 26, 2013. The employee or annuitant needs to complete an SF 2817. The life event code for adding either a spouse or child(ren) of a same-sex marriage is 2.
  - **Employees who have waived Basic and/or Optional FEGLI coverage** will be allowed to cancel their waiver based on a change of family circumstances. Employees with no coverage will be allowed to enroll in Basic and any Optional insurance up to the maximum. For those with existing FEGLI coverage, they will be allowed to newly elect or increase Optional insurance up to the maximum. New enrollments or changes to existing enrollments must be made by August 26, 2013.
  - Please contact your servicing human resources office if you have questions or need additional information on your FEGLI benefit coverage or election opportunities.

- **Federal Employees Dental and Vision (FEDVIP) Program**
  - As a result of the Supreme Court decision, legally married same-sex spouses will now be eligible family members under a Self and Family enrollment or a Self Plus One enrollment. In addition, the children of same-sex marriages will be treated in the same manner as those of opposite-sex marriages and will be eligible family members according to the same eligibility guidelines. This includes coverage for children of same-sex spouses as stepchildren.
  - **If an enrollee currently has a Self and Family enrollment**, the enrollee must notify BENEFEDS of any additional family members by calling the BENEFEDS Customer Service Center, (1-877-888-3337) within 60 days from June 26, 2013 (i.e., until August 26, 2013). As with any other newly eligible family member, carriers may ask for documentation such as a valid marriage license to confirm eligibility, but carriers will be instructed to follow the same procedures they usually follow when adding an opposite-sex spouse to a Self and Family enrollment. Carriers will be cautioned against imposing any new rules in response to the Supreme Court's decision that could be seen as having either the purpose or effect of creating barriers to enrollment for legally married same-sex couples.
  - If an enrollee currently has a Self Only enrollment or a Self Plus One enrollment and would like to change enrollment in order to cover the enrollee's same-sex spouse or newly eligible child(ren), he/she must do so by August 26, 2013. Enrollees may submit a change by calling the BENEFEDS Customer Service Center. Enrollees with a Self Plus One enrollment hoping to change their covered family member must wait until the annual Open Season.
  - Marriage is not an event that permits a new FEDVIP enrollment. Employees, annuitants, and compensationers who are not enrolled in FEDVIP will not be allowed to enroll in a FEDVIP plan until the annual Open Season.
  - For more information about FEDVIP, call the the BENEFEDS Customer Service Center at 1-877-888-3337, or visit the website at [www.BENEFEDS.com](http://www.BENEFEDS.com).
  
- **Federal Long-Term Care Insurance Program (FLTCIP)**
  - Legally married same-sex spouses of Federal employees and annuitants are now qualified relatives eligible to apply for FLTCIP coverage. The Supreme Court decision does not change the existing FLTCIP policy that allows same-sex domestic partners of Federal/postal employees and annuitants to enroll as qualifying relatives.
  - FLTCIP eligible individuals and their qualifying relatives may apply for coverage at any time. Because the Federal government prior to the Supreme Court decision did not recognize same-sex marriages, same-sex marriages that predate the decision will be considered new marriages on June 26, 2013. Newly eligible legally married same-sex spouses of current employees and active members of the uniformed services will have 60 days from June 26, 2013 (i.e., until August 26, 2013), to apply for coverage with abbreviated underwriting. After the 60-day opportunity to enroll, same-sex spouses of current employees and active members of the uniformed services will be subject to full underwriting. Newly eligible legally married same-sex spouses of annuitants, retired members of the uniformed services and other qualifying relatives, such as parents-in-law, may apply to enroll at any time and are subject to full underwriting.

- Parents of legally married same-sex spouses will be eligible as qualified relatives of Federal employees, postal employees, or active members of the Uniformed Services, just as the parents of opposite-sex spouses are. Parents of annuitants are not eligible as qualified relatives.
- For more information about the FLTCIP, please contact Long Term Care Partners at 1-800-582-3337, or visit the website at [www.ltcfeds.com](http://www.ltcfeds.com).
- **Federal Flexible Spending Accounts (FSAFEDS)**
  - Effective immediately, an employee who is enrolled in FSAFEDS may request reimbursement for eligible health care expenses incurred by a legally married same-sex spouse or related child. In addition, childcare for a child of an enrollee's same-sex spouse is eligible under a Dependent Care FSA. Eligibility for coverage under an FSAFEDS account is based on IRS dependency rules; except children under age 26 are eligible under a Health Care FSA without regard to tax or residence dependency.
  - Enrolling or changing the amount of an election -- Because same-sex marriages were not recognized by the Federal government prior to this Supreme Court decision, all Federal employees in legal same-sex marriages that predated this decision will be considered to have a change in family status (from unmarried to married) on June 26, 2013. As a result, employees in existing same-sex marriages will have 60 days following the date of the decision (i.e., until August 26, 2013) to enroll in or make changes to their existing FSAFEDS account. Any changes made to the account must be consistent with the life event. In this case, newly eligible spouses and/or children may result in an increased, but not a decreased, election. If an enrollee does not change his or her election during the 60-day window, he/she must wait until the annual Open Season or another Qualifying Life Event to make an enrollment change.
  - For more information about the FSAFEDS, call 1-877-372-3337/ TTY 1-800-952-0450 or visit the website [www.fsafeds.com](http://www.fsafeds.com).