



Approved for Release

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Date

**DEPARTMENT OF COMMERCE
OFFICE OF HUMAN RESOURCES MANAGEMENT**

HUMAN RESOURCES (HR) BULLETIN #127, FY10

SUBJECT: Federal Long Term Care Insurance Program (FLTCIP): Eligibility for Same-Sex Domestic Partners' Benefits

EFFECTIVE DATE: July 1, 2010

EXPIRATION DATE: Effective until canceled or superseded

BACKGROUND: OPM issued a final regulation on June 1, 2010, allowing same-sex domestic partners to apply for coverage under FLTCIP. The regulation adds a new section, Title 5, Code of Federal Regulations (CFR) § 875.213, expanding eligibility to apply for coverage under FLTCIP. Under this regulation, the definition of "qualified relative" found in Title 5, United States Code (U.S.C.) § 9001(5)(D) is expanded to cover the same-sex domestic partners of eligible Federal and U.S. Postal Service employees and annuitants.

On June 2, 2010, the President signed a Memorandum for the Heads of Executive Departments and Agencies, "Extension of Benefits to Same-Sex Domestic Partners of Federal Employees," which directed Departments to extend multiple benefits to same-sex domestic partners and to the children of same-sex partners of Federal employees, consistent with existing law.

PURPOSE: The Bulletin notifies servicing human resources offices (SHROs) that employees' same-sex domestic partners are now eligible to apply for coverage under FLTCIP. It also provides the Office of Human Resources Management's (OHRM) policy on eligibility and processing requirements.

DEFINITIONS: A "domestic partner" is defined as a person in a domestic partnership with an employee or annuitant of the same sex.¹

A "domestic partnership" is defined as a committed relationship between two adults, of the same sex, in which the individuals:

¹ Though Federal law does not currently recognize same-sex marriages, individuals in same-sex marriages recognized by a State or the District of Columbia are eligible to qualify for the benefits covered by the Presidential Memorandum if they meet the definition of "domestic partner" contained herein.

1. Are each other's sole domestic partner and intend to remain so indefinitely;
2. Maintain a common residence, and intend to continue to do so (or would maintain a common residence but for an assignment abroad or other employment-related, financial, or similar obstacle);
3. Are at least 18 years of age and mentally competent to consent to contract;
4. Share responsibility for a significant measure of each other's financial obligations;
5. Are not married or joined in a civil union to anyone else;
6. Are not the domestic partner of anyone else;
7. Are not related in a way that, if they were of opposite sex, would prohibit legal marriage in the U.S. jurisdiction in which they reside;
8. Are willing to certify they understand that willful falsification of any documentation required to establish that an individual is in a domestic partnership may lead to disciplinary action and the recovery of the cost of benefits received related to such falsification, as well as constitute a criminal violation under Title 18, U.S.C. § 1001; and
9. Are willing to disclose promptly, if required by the agency, any dissolution or material change in the status of the domestic partnership.

POLICY: It is the policy of OHRM that SHROs must notify all new employees of the opportunity for same-sex domestic partners to participate in FLTCIP. This notification must be provided during "new employee orientation," along with other employee benefits. The Office of Policy and Programs will notify all current employees, via broadcast e-mail, of the opportunity for same-sex domestic partners to participate in FLTCIP.

Eligibility – Same-sex domestic partners must meet the requirements of a domestic partner and be in a domestic partnership, as defined above, to be eligible for FLTCIP benefits.

Documentation – Eligible individuals must submit the Declaration of Domestic Partnership form (Declaration). A current Federal employee (to include reemployed annuitants) or his or her same-sex domestic partner must file the Declaration with the employee's SHRO. The Declaration is attached to this Bulletin and available on the FLTCIP website at www.ltcfeds.com.

If a same-sex domestic partnership is dissolved, a signed letter indicating the dissolution must be submitted, no later than 30 days after no longer meeting the definition of domestic partnership. A current Federal employee (to include reemployed annuitants) or his or her same-sex domestic partner must file the dissolution letter with the employee's SHRO. However, a reemployed annuitant working for the Department of Commerce or his or her same-sex domestic partner must file the dissolution letter with the annuitant's retirement system (OPM for most annuitants).

Processing of Forms – To indicate official receipt, a SHRO representative must sign, date, and return a copy to the employee of all Declarations and letters indicating dissolution of a domestic partnership.

Disposition of Forms – All documentation (Declarations and signed letters indicating the dissolution of the partnership) must be maintained, permanently. SHROs must file all documentation in the employee's Official Personnel Folder (OPF) or Electronic Official

Personnel Folder (eOPF). Upon retirement, SHROs must forward all original copies of FLTCIP same-sex domestic partner documentation to OPM along with the retirement application.

Application for FLTCIP – Same-sex domestic partner FLTCIP benefits may only be obtained by submitting an enrollment application directly to FLTCIP. Individuals interested in participation must first submit the required Declaration to the employee’s servicing personnel office and then contact FLTCIP. Information regarding FLTCIP enrollment may be obtained on the Internet at www.ltcfeds.com.

For additional information, frequently asked questions are attached.

REFERENCES: 18 U.S.C. § 1001; Memorandum for the Heads of Executive Departments and Agencies, “Federal Benefits and Non-Discrimination,” dated June 17, 2009; 5 U.S.C. § 9001 (5) (D); Presidential Memorandum, dated June 2, 2010, “Extension of Benefits to Same-Sex Domestic Partners of Federal Employees”; and *Federal Register*, Vol. 75, No. 104, page 30267.

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Attachments:

1. Declaration of Domestic Partnership form
2. Frequently Asked Questions

DEPARTMENT OF COMMERCE
OFFICE OF HUMAN RESOURCES MANAGEMENT

FEDERAL LONG TERM CARE INSURANCE PROGRAM:
ELIGIBILITY FOR SAME-SEX DOMESTIC PARTNERS' BENEFITS

FREQUENTLY ASKED QUESTIONS (FAQs)

1. Can opposite-sex domestic partners apply for coverage under this new regulation?

No, this new regulation applies only to same-sex domestic partners who meet the requirements of Title 5, CFR § 875.213.

2. Are same-sex domestic partners of active or retired members of the uniformed services covered under this new regulation?

No, this new regulation applies only to eligible Federal or U.S. Postal Service employees or annuitants and their same-sex domestic partners.

3. Does the agency need to inform the FLTCIP insurer or administrator of the declaration or dissolution of a domestic partnership?

No. Prior to finalizing enrollment, John Hancock, as the FLTCIP insurer, or Long Term Care Partners, as the FLTCIP administrator, may contact the employee's agency to verify that a form is on file.

4. Has the FLTCIP full underwriting application been updated to include same-sex domestic partners?

Yes. The application form contains a new, eligible group, box listed under "Other Qualified Relatives." If someone is using an old form, however, the box does not appear. They should use a new application form, available at www.ltcfeds.com or by calling 1-800-582-3337.

5. Do same-sex domestic partners answer the same questions about their health as other qualified relatives?

Yes. They use the same full underwriting application form that other qualified relatives use.

6. Are same-sex domestic partners guaranteed to be approved for coverage?

No. The FLTCIP does not provide guaranteed issue coverage. Everyone who applies is subject to underwriting.

7. Does the dissolution of a domestic partnership end either party's insurance coverage under the FLTCIP?

No, it does not.

8. Is there a specified period of time individuals must be in a same-sex domestic partnership to be eligible to receive FLTCIP benefits?

No, it is not.

9. Can the employee/partner simply submit proof of a same-sex marriage or civil union in states that recognize them?

No. OPM's regulation allows domestic partners to be eligible to apply for Federal long-term care insurance as qualified relatives. Therefore, they are requiring a uniform set of criteria that all eligible employees, retirees and their same-sex domestic partners must meet. The employee/partner must provide all of the information that is on the attached form.

9. Does the employee have to submit the Declaration of Domestic Partnership form or can the same-sex domestic partner submit it?

Either person may submit it but it will be filed in the employee's official personnel folder or its equivalent.

10. Does the employee/partner have to use the Declaration of Domestic Partnership form?

Yes, Department of Commerce, HR Bulletin #127, FY-10, requires all employees to use this form.

11. Does the Declaration of Domestic Partnership form have to be notarized?

No, it does not.

12. Where can I obtain more copies of this Declaration of Domestic Partnership form?

You can print this form locally. It is also posted on the Internet for downloading, at www.ltcfeds.com or by calling 1-800-582-3337.

13. Is this a Standard Form with a form number?

No, it is not. It is a suggested form, but not a required (standard) form.

14. If a same-sex domestic partnership is dissolved, how is the employee's agency notified?

The employee and/or his or her domestic partner should submit a signed letter to the employee's agency, with the original declaration documentation, indicating it is now void. This information must be filed in the employee's Official Personnel Folder (OPF) or Electronic Official Personnel Folder (eOPF).

15. Can same-sex domestic partners now also enroll in Federal Employee Health Benefits (FEHB), Federal Employee Group Life Insurance (FEGLI), or Federal Employee Dental and Vision Insurance Plan (FEDVIP)?

No. This new regulation is specific only to FLTCIP.

16. Does the employee/annuitant need to be enrolled in FLTCIP in order for his/her same-sex domestic partner to be eligible?

No. The domestic partner can apply on his or her own regardless of whether the employee or annuitant is enrolled.

17. Where can I find additional information on FLTCIP?

Additional information may be found on the FLTCIP website at www.ltcfeds.com.