

ANNOUNCEMENT

Same-Sex Spouse - Coverage in Benefit Options Plans; FMLA Eligibility

CONTENT

As a result of the recent change in the State of Arizona's recognition of marriage between same-sex couples, the Benefit Options plans now recognize same-sex spouses under the definition of eligible dependents as a legal spouse and the federal Family and Medical Leave Act (FMLA) now covers same sex spouses.

The following applies to non-university employees and all retirees:

If an employee/retiree has a same-sex spouse to whom they were married prior to October 16, 2014, but had not enrolled them as a same-sex domestic partner in the Benefit Options plans, they may process a qualifying event as of October 17, 2014. Their change in benefits will begin effective the 1st day of the pay period following approval of the qualifying event for active employees and 1st day of the month following approval for retirees. They will have until December 31, 2014, to submit the qualifying event paperwork and enrollment form. They are not required to complete the domestic partner affidavit.

If they have a same-sex spouse who they married in another state/country, have previously enrolled them as a domestic partner in the Benefit Options plans, and have provided their marriage certificate after the 2013 Windsor federal ruling, we will be updating their dependent type to spouse and changing their benefit plans to reflect pre-tax coverage as of October 25, 2014. Impacted employees/retirees will receive a letter notifying them of this change shortly.

If they have a same-sex domestic partner to whom they are not married or have not provided a marriage certificate to HRD-Benefit Services previously and have enrolled them as a domestic partner in the Benefit Options plans, they will have until December 31, 2014, to submit a marriage certificate proving legal marriage and thus update the domestic partner's status to spouse during this Plan Year. HRD-Benefit Services will change their benefit plans to reflect pre-tax coverage as of the 1st day of the pay period following receipt of their marriage certificate for active employees and 1st day of the month following receipt for retirees. Impacted employees/retirees will receive a letter notifying them of this change shortly.

Once a same-sex spouse has been updated from same-sex domestic partner to spouse in HRIS, the employee/retiree may participate in Open Enrollment online until November 21, 2014. For same-sex domestic partners that are updated to spouse or for qualifying events processed after November 21, 2014, the employee/retiree will need to complete a paper Open Enrollment form.

For same-sex spouses that were covered as domestic partners in the past, HRD-Benefit Services will be working with GAO Central Payroll to correct any imputed income and post-tax deductions for 2014 since January 1, 2014, or the date of their marriage, whichever is later.

Employees have been offered same-sex domestic partner coverage pursuant to a preliminary injunction in *Diaz v. Brewer* (Case No. 2:09-c-v02402-JWS), pending in the U.S. District Court for the District of Arizona. Because same-sex couples now may marry, our intention is to apply to the court to have the preliminary injunction lifted. If we are successful, same-sex domestic partners will no longer be eligible for coverage in the Benefit Options plans effective January 1, 2015, or the date the preliminary injunction is lifted, whichever is later. If the same-sex couple are not married to their same-sex domestic partner at the time that domestic partner benefits no longer are available, COBRA will be offered to same-sex domestic partner at that time.

In addition, agencies should review their FMLA policies, procedures and forms to ensure compliance with the Court's decision on same-sex marriage. Beginning October 17, 2014, same-sex married couples are considered married for FMLA purposes and eligible employees are entitled to FMLA leave to care for their spouse. In accordance with the FMLA, if both spouses work for the State of Arizona, the spouses are eligible for a combined total of 12 or 26 workweeks of FMLA leave, as applicable (spouses are required to aggregate FMLA leave).

If employees/retirees have questions, they may contact Member Services at 800-304-3687 or 602-542-5008.

ISSUED

October 29, 2014