



Employer *Bulletin*

Employer Communication Center (608) 266-3285 Toll free: 1-877-533-5020 <http://etf.wi.gov>

Insurance Benefits for Same-Sex Spouses

NOTICE OF CORRECTION – October 24, 2013

The Table of Imputed Income for Domestic Partnership Health Insurance Coverage on page 3 of this bulletin has been corrected. The correction appears in the second row of the table concerning Wisconsin income for Active State/Local Employees who are tax dependent domestic partners.

State and Local Employers

This bulletin contains information regarding health insurance and life insurance for state and local participants. This bulletin addresses the impacts of the U.S. Supreme Court ruling on the federal Defense of Marriage Act (DOMA) and the Internal Revenue Service (IRS) issued Revenue Ruling 2013-17, effective September 16, 2013, related to same-sex marriages on health insurance benefits. It is intended to also address questions from the It's Your Choice Kick-off related to DOMA (the questions can be found on the It's Your Choice page under the listing of 2014 materials).

State Agencies Only

This bulletin also contains information regarding Employee Reimbursement Accounts (ERA) for state participants. This bulletin also notifies employers about a special 30-day election period for employees in existing same-sex marriages who want to make changes to their current (2013) ERA effective **Monday, October 14, 2013, through Wednesday, November 13, 2013. Please inform employees of this opportunity and have them complete the appropriate form within 30 days (see links below).**

General outcomes of the Revenue Ruling:

- Administration of health insurance benefits is not affected unless governed by federal tax law.
- No enrollment opportunity is created for health insurance.
- Employers should not request a marriage certificate for proof of same-sex marriage.
- Imputed income rules are affected. There are differences between state and federal imputed income.

Eligibility of Same-Sex Spouse for Health Insurance

Since Wisconsin law does not recognize same-sex marriages, individuals in a same-sex marriage must still meet the statutory requirements for a Chapter 40 domestic partnership and file an *Affidavit of Domestic Partnership* form (ET-2371) with ETF in order to get insurance coverage for their same-sex spouse. A valid same-sex marriage does **NOT** automatically create a Chapter 40 Domestic Partnership. A valid same-sex marriage without a Chapter 40 Domestic Partnership does **NOT** create an enrollment opportunity for health insurance.

Instructions for Employees Adding Same-Sex Spouses Using the *Group Health Insurance Application/Change Form (ET-2301)* or myETF Benefits

Employees who want to add their same-sex spouse to their health insurance should indicate the following on their ET-2301 applications:

- Section 1 – Marital or Domestic Partnership Status
 - Check only the Domestic Partnership (DP) box
- Section 2B – Reason for Application-Enrollment
 - Reason: Add Coverage (Add Cvg)
 - Event: Marriage/DP* (Add Cvg, Add Dep)
 - Date of Event: Effective date of Domestic Partnership

Employees who want to add coverage for their same-sex spouse must also submit the following forms when submitting their ET-2301 or myETF Benefits applications:

- *Affidavit of Domestic Partnership form* (ET-2371) to ETF;
- Copy of their *Domestic Partner Affidavit Acknowledgment Letter* (ET-2373) to employer.

Notes:

If an employee who wants to add coverage for his or her eligible same-sex spouse mistakenly indicates “Married” rather than “Domestic Partnership (DP)” in the marital status section, an employer should:

- Direct the employee to amend his or her application to indicate Domestic Partnership (DP);
- Check with ETF to verify that the employee has submitted an *Affidavit of Domestic Partnership form* (ET-2371) to ETF. If the employee has not submitted an *Affidavit of Domestic Partnership form* to ETF, direct the employee to do so.

For all “Pending” transactions in myETF Benefits with the reason Add Coverage “Marriage/DP,” employers should review the gender status of both spouses. Applications that indicate the same genders for both spouses and “Married” in the Marital or Domestic Partner Status section should be denied. In these situations, employers should follow up with employees and direct them to resubmit their myETF Benefits request indicating Domestic Partnership in the appropriate field, if applicable.

Since an employee’s signature on the health insurance application legally attests to his or her marital status, employers need not request a marriage certificate for proof of same-sex marriage. However, as in all health coverage situations, ETF or an employer may request additional documentation supporting a claim of marriage if necessary to resolve a discrepancy in a specific instance.

Eligibility of Children of Same-sex Married Couples for Health Insurance

Employees who want to provide health insurance coverage to the children of their same-sex spouse must:

- Meet the statutory requirements for a Chapter 40 domestic partnership,
- File an *Affidavit of Domestic Partnership form* (ET-2371),
- File a *Group Health Insurance Application/Change Form* (ET-2301),
- List their spouse’s child(ren) as an eligible dependent(s).

Health Insurance Imputed Income

For federal tax purposes only, employers must exclude employer contributions for health insurance from employees’ gross income. This results in no imputed income and no additional tax liability for federal tax purposes. However, there may still be imputed income/additional tax liability for Wisconsin income tax purposes. Please see the chart below for specific information regarding imputed income for health insurance.

Table of Imputed Income for Domestic Partnership Health Insurance Coverage

Status	Federal Imputed Income?	Wisconsin Imputed Income?
<p>Active State/Local Employee (DP, No Tax Dependent)</p> <ul style="list-style-type: none"> • Chapter 40 Domestic Partnership. • Employer-Paid Coverage for Domestic Partner and for any Eligible Dependents. • Domestic Partner is not a Tax Dependent under the Federal Internal Revenue Code. (See IRS Publication 501). 	Yes	Yes
<p>Active State/Local Employee (DP, Tax Dependent)</p> <ul style="list-style-type: none"> • Chapter 40 Domestic Partnership. • Employer-Paid Coverage for Domestic Partner and for any Eligible Dependents. • Domestic Partner Qualifies as the Member's Tax Dependent under the Federal Internal Revenue Code. (See IRS Publication 501). 	No	No
<p>Active State or Local Employee (DP with Same Sex Spouse)</p> <ul style="list-style-type: none"> • Same Sex Spouse. • Chapter 40 Domestic Partnership. • Employer-Paid Coverage for Domestic Partner who is a Same Sex Spouse and for any Eligible Dependents. 	No	Yes
<p>Retired State Employee (DP with Same Sex Spouse; Direct Pay)</p> <ul style="list-style-type: none"> • Same Sex Spouse. • Chapter 40 Domestic Partnership. • Self-Paid Coverage for Domestic Partner who is a Same Sex Spouse and for any Eligible Dependents (Premium Paid from Annuity or Directly to Health Plan). 	No	No
<p>Retired State Employee (DP with Same Sex Spouse; Sick Leave Credits)</p> <ul style="list-style-type: none"> • Same Sex Spouse. • Chapter 40 Domestic Partnership. • Sick-Leave Credits Paying Coverage for Domestic Partner who is a Same Sex Spouse, and for any Eligible Dependents. • Premium Paid from Accumulated Sick Leave Conversion Credits (ASLCC). 	No	Yes
<p>Retired Local Employee (DP with Same Sex Spouse; Paid by Former Employer)</p> <ul style="list-style-type: none"> ▪ Same Sex Spouse. ▪ Chapter 40 Domestic Partnership. • Coverage for Domestic Partner who is a Same Sex Spouse and for any Eligible Dependents. ▪ Premium Paid from Accumulated Sick Leave Conversion Credits (ASLCC), OR ▪ Some portion of premium paid by former employer. 	No	Former Local ER determines & manages any Imputed Income Amount.

Eligibility for Life Insurance

The U.S. Supreme Court ruling on the federal Defense of Marriage Act (DOMA) and the Internal Revenue Service (IRS) issued Revenue Ruling 2013-17 has no impact on eligibility for life insurance for state and local employees. Life insurance is available for domestic partners. Employees who want to obtain life insurance benefits for their same-sex spouse must meet the requirements of a Chapter 40 Domestic Partnership in order to obtain coverage for their spouse.

ERA Special Election Period

State of Wisconsin employees in existing same-sex marriages will have 30 days, beginning Monday, October 14, 2013 through Wednesday, November 13, 2013, to enroll in or make changes to their 2013 ERA account. Any changes made to the account must be consistent with a marriage life event. In this case, newly eligible spouses and/or children may result in an increased, but not a decreased, election. Employees wishing to enroll or increase their 2013 election for this reason should complete and submit an Enrollment Form or Change in Status Form to WageWorks.

- Enrollment Form http://etf.wi.gov/publications/13era_form.pdf
- Change in Status Form http://etf.wi.gov/publications/era_status_chg.pdf

The Department of Employee Trust Funds does not discriminate on the basis of disability in the provision of programs, services or employment. If you are speech or hearing impaired and need assistance, call the Wisconsin Relay Service toll free at 7-1-1 or 1-800-947-3529 (English) 1-800-833-7813 (Español). If you are visually or cognitively impaired, call 1-877-533-5020 or (608) 266-3285 locally. We will try to find another way to get the information to you in a usable form.

This *Employer Bulletin* is published by the Wisconsin Department of Employee Trust Funds. Questions should be directed to contact persons listed in the *Bulletin*. Employer agents may copy this *Bulletin* for further distribution to other payroll offices, subunits or individuals who may need the information. Copies of the most recent *Employer Bulletins* are available on our Internet site at the following URL: <http://etf.wi.gov/employers.htm>

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