

## Same-Sex Marriage Ruling & Employee Benefits

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On June 26, 2015, the U.S. Supreme Court decided that all states must license a marriage between two people of the same sex and must honor the marriage licenses issued by another state.

Many employers are likely wondering what this means for their employee health and welfare benefits plan. Here's what employers should know:

- Self-funded private employers are not required to offer benefits to same-sex spouses at this time. Self-funded plans are governed by ERISA law.
- Fully insured private employers are not required to offer benefits to same-sex spouses at this time unless the employer is subject to a state LGBT anti-discrimination law or state mandate requiring it. Employers can find a list of states with such anti-discrimination laws [here](#).
- Both fully insured and self-funded employers will face an increased risk of a claim of sex discrimination if they do not offer same-sex spouses the same benefits as opposite-sex spouses. To avoid possible litigation, we recommend fully insured and self-funded employers amend their plans to cover same-sex spouses.
- We expect the EEOC, Department of Labor, and/or IRS to issue guidance soon. We will be in touch with you as soon as any guidance is published.

If your company is fully insured and subject to a state LGBT anti-discrimination law, we recommend you amend your plan immediately if you have not already done so. If your company is not in a state with LGBT anti-discrimination laws, you should consider amending your plan no later than your next open enrollment date, unless we receive updated information to the contrary. Should you have any questions, please contact your BRSI Benefit Advisor.

*Disclaimer: This article is for informational purposes only. It is not intended to be exhaustive and should not be construed as or substituted for legal advice. Please consult with legal counsel for further guidance.*

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