



Update: Same-Gender Marriage & Employee Benefits

By Emily Tonkovich

We have received additional information regarding the U.S. Supreme Court's same-gender marriage decision. At this time, this is how we understand its impact on health and welfare plans:

- It's important to refer to the certificate of coverage for the definition of dependent spouse. Typically, the certificate of coverage defines spouse as a "legal spouse."
- If the certificate of coverage defines spouse as a "legal spouse," the employer should offer coverage to same-gender spouses on the same terms as opposite-gender spouses, effective June 26, 2015. No plan amendment is needed. Many insurance carriers are offering a special open enrollment period for same-gender spouses who were legally married in a state that recognized same-gender marriage prior to June 26, 2015. For some carriers, this special open enrollment period ends as early as this week.
- If the certificate of coverage defines spouse as "opposite-gender legal spouse" the employer does not have to immediately offer coverage to same-gender spouses on the same terms, unless the employer is fully-insured and subject to a state law requiring it. Our previous [Compliance Alert](#) provides further details. If your plan defines spouse as "opposite-gender legal spouse," you may want to amend your plan to avoid a potential discrimination claim and/or to comply with state law if applicable.

Your BRSI Benefit Advisor will be in touch with you shortly with more information regarding how the Supreme Court decision affects your plan.

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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