



## ***Benefits Administration Letter***

**Number:** 10-901

**Date:** June 1, 2010

**Subject: Federal Long Term Care Insurance Program (FLTCIP):  
Qualified Relatives now include Same-Sex Domestic Partners**

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### **Background**

This letter provides information on the opportunity for same-sex domestic partners to apply for coverage under the Federal Long Term Care Insurance Program (FLTCIP).

OPM issued a proposed regulation on September 14, 2009 to allow same-sex domestic partners to apply for coverage under the FLTCIP. The final regulation was published in the Federal Register today (June 1, 2010). The final regulation is unchanged from the proposed regulation. It adds a new section (5 CFR 875.213) expanding the definition of "qualified relative" to include same-sex domestic partners of eligible Federal and U.S. Postal Service employees and annuitants. Like all "qualified relatives," same-sex domestic partners will be subject to full underwriting.

We believe allowing same-sex domestic partners to apply for FLTCIP coverage will help agencies address the family needs of a diverse workforce and enhance the Federal Government's ability to compete with the private sector for talent.

To apply for FLTCIP coverage, a same-sex domestic partner must indicate on the FLTCIP application that documentation of the domestic partnership has been submitted to the employee/annuitant's agency/retirement system. Following is information on the agencies' role in this process.

### **Required Documentation**

Eligible individuals will need to provide documentation (a "declaration") that they meet the definition of "domestic partnership." An employee or his or her same-sex domestic partner must file the declaration with the employee's agency. Annuitants or their same-sex domestic partners must file their declaration with their retirement system (OPM for most annuitants).

A Declaration form is attached to this BAL and will also be available at [www.ltcfeds.com](http://www.ltcfeds.com).

No documentation other than the Declaration form is required. Agencies do not have to ask for proof of the partnership. Agencies must indicate receipt on the form, provide a receipted copy to the employee and file the form in the employee's official personnel folder or its equivalent. Agencies should not send the form to the FLTCIP insurer or administrator nor will the insurer typically request information that the form is on file.

### **Requirements for a Same-sex Domestic Partnership**

The term "domestic partnership" is defined as a committed relationship between two adults, of the same sex, in which the partners—

- (1) Are each other's sole domestic partner and intend to remain so indefinitely;
- (2) Have a common residence, and intend to continue the arrangement indefinitely;
- (3) Are at least 18 years of age;
- (4) Share responsibility for a significant measure of each other's financial obligations;
- (5) Are not married to anyone else;
- (6) Are not a domestic partner of anyone else; and
- (7) Are not related in a way that, if they were of opposite sex, would prohibit legal marriage in the State in which they reside.
- (8) Will certify they understand that willful falsification of information within the documentation may lead to disciplinary action, loss of insurance coverage and/or the recovery of the cost of benefits received related to such falsification and may constitute a criminal violation under 18 U.S.C. 1001.

### **Effective date**

Same-sex domestic partners can apply for coverage under the FLTCIP on/after the date the final regulation is effective, which is 30 days after the date it is published.

### **Questions and Answers**

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

A. No they cannot. This new regulation only applies to same-sex domestic partners who meet the requirements listed above.

Q. Does the form have to be notarized?

A. No it does not.

Q. If a same-sex domestic partnership is dissolved, how are we notified?

A. The employee and/or his or her domestic partner can submit a signed letter to the employee's agency, attaching the original Declaration, indicating it is now void. The agency should simply file the form with the employee's records. The dissolution of a domestic partnership does not end either party's insurance coverage under the FLTCIP. Agencies do not need to inform the FLTCIP insurer or administrator of the dissolution of the partnership.

Q. Do we need to send the forms to John Hancock or Long Term Care Partners?

A. No. But John Hancock, as the insurer, or Long Term Care Partners, as the administrator, may contact you to verify that a form is on file.

Q. When an employee with a Declaration form on file retires, do we need to send the form to OPM with their other retirement papers?

A. Yes.

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

A. No, they are not.

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

A. Yes. There is a new eligible group box listed under "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](http://www.ltcfeds.com) or by calling 1-800-582-3337.

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

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

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

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

Q. Can same-sex domestic partners now also enroll in FEHB, FEGLI and FEDVIP?

A. No. This new regulation is specific only to the FLTCIP.

Q. Does the employee have to submit the Declaration form or can the same-sex domestic partner submit it?

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

Q. Does the employee/partner have to use the attached form? What if they use another form?

A. They do not have to use this form. However, all of the information that is on this form must appear on whatever they have chosen to submit. We strongly suggest they use the attached form, for convenience.

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

A. No. OPM's regulation allows for domestic partners to be eligible to apply for federal long term care insurance as qualified relatives. Therefore, we 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.

Q. Where can I obtain more copies of this form?

A. You can print this form locally. It will also be posted on the Internet for downloading, including at [www.ltcfeds.com](http://www.ltcfeds.com) or by calling 1-800-582-3337.

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

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

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

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

Q. Does the employee need to be eligible to apply for FLTCIP coverage in order for his/her same-sex domestic partner to be eligible?

A. Yes. The employee must be eligible to apply for FLTCIP coverage but, as stated above, does not have to be enrolled in FLTCIP. So, for example, a temporary employee expected to work less than one year is not eligible to apply for FLTCIP coverage. Therefore, his/her same-sex domestic partner is not eligible to apply for coverage. But FLTCIP eligibility is not something the agencies need to deal with; rather they should simply accept the Declaration forms and file them.

Q. Can two sisters or two brothers who live together qualify as domestic partners for purposes of applying for FLTCIP coverage?

A. No. See requirement (7) above. You cannot be considered domestic partners if you could not be married to each other if you were the opposite sex. Siblings cannot marry each other, so same-sex siblings who live together are not considered same-sex domestic partners.

If you have any questions not addressed in this letter, please e-mail OPM at [lrc@opm.gov](mailto:lrc@opm.gov).

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Attachment