

# Employee Benefits Division Policy Memorandum

**Number: 129r1**

**Date Issued: September 22, 2006**

**Date revised: May 1, 2007**

**Policy File Ref: A330**

**Subject: Dependent Eligibility**

## **ISSUE:**

**Recognition of the spousal relationship in marriages between partners of the same sex conducted in jurisdictions where they may legally be performed.**

## **BACKGROUND:**

A number of enrollees in the New York State Health Insurance Program (NYSHIP) have entered into marital relations with persons of the same sex and requested that their partner be eligible for coverage as a spouse. Prior to promulgation of this revised policy, such requests were denied. In 1995, the negotiated agreements between the State and with the various unions representing State employees provided eligibility to same sex spouses and certain others as domestic partners of State employees. Domestic partner coverage was also made available to Participating Agencies (PAs) and Participating Employers (PEs) at the discretion of the agency. This policy has been challenged in litigation (Funderburke v. New York State Department of Civil Service et al.) in which an appeal is now pending. As a result of legal and policy concerns in regard to the prior policy, the Department of Civil Service determined that for purposes of benefits eligibility under NYSHIP and all other benefit plans administered by its Employee Benefits Division, it would recognize as spouses partners in same sex marriages legally performed in other jurisdictions.

## **POLICY:**

Effective May 1, 2007, the Department of Civil Service recognizes, as spouses, the parties to any same sex marriage performed in jurisdictions where that marriage is legal. This policy applies to all health benefit plans provided under NYSHIP, including the Empire Plan, the Student Employees Health Plan and HMOs, and all other benefits administered by the Employee Benefits Division, including The New York State Dental and Vision Plans, the M/C Life Insurance Program and NYPERL. Recognition of these spouses is mandatory for the State and all other entities participating in NYSHIP, including all PAs and PEs.

## **RATIONALE:**

This memorializes the Department of Civil Service's change in policy regarding the recognition of partners in same sex marriages as spouses.

## **UNIT RESPONSIBILITY:**

All

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Director of Employee Benefits