

## ***UNDERSTANDING DOMESTIC PARTNER ELIGIBILITY***

The topic of enrolling domestic partners as dependents under group benefit programs is receiving more attention. This information will assist employers in evaluating the issue of offering employees the opportunity to enroll a domestic partner as a dependent under their health plan coverage.

Generally, carriers and regulatory agencies do not make a distinction between same sex and non-same sex relationships when defining "domestic partner". Both are incorporated into the discussion presented here.

If an employer wishes to allow domestic partner eligibility and the insurance carrier has added the necessary contract language (or if your carrier has automatically included it in your contract language), the following tasks should be considered:

- If the domestic partner language is incorporated into the insurance contract and written materials, ask yourself, "Who pays the premium for the domestic partner?"
- If the employee pays the entire cost with after tax dollars through payroll deduction, there are no special implications for tax purposes (for the employee or the employer).
- If the employer pays the premium cost in whole or in part, the employer must then evaluate each employee application wishing to enroll a domestic partner as follows:
  - Determine if the domestic partner meets the IRS definition of "tax dependent" as a "qualifying relative". (The IRS defines a qualifying relative as someone who has the same principal abode as the employee for the entire calendar year; and is a member of the employee's household for the entire calendar year; and receives more than half of his or her support from the employee; and is not anyone's "qualified child" under Code Section 152; and is a US Citizen.)
  - IF YES (domestic partner meets IRS definition of qualifying relative) then the employer may pay for all or part of the premium as would be done for any other dependent, and the employee's share (if any) may be payroll deducted using pre-tax or after-tax dollars, as would be done for any other employee. There are no special tax implications for the employer or the employee.
  - IF NO (domestic partner does not meet IRS definition of qualifying relative) then any employer contribution towards the premium for the domestic partner must be reported as W-2 wages (imputed income) to the employee, and any share of the premium from the employee must be payroll deducted using after-tax dollars. If the employer has a cafeteria plan, the domestic partner election is treated as cash in lieu of benefits, and a section 125 plan document is necessary.

Employers offering domestic partner eligibility should be prepared to handle the additional administrative tasks associated with payroll and accounting functions. Unfortunately for employers, most carriers have written domestic partner eligibility into their contracts which then requires the employer to administer domestic partner eligibility, whether they wish to or not. Carriers generally offer employers with more than 50 employees the option to accept or reject domestic partner eligibility in a contract rider/amendment. There is usually a small cost added to the rates to extend domestic partner eligibility.

### **OTHER CONSIDERATIONS**

- Medical coverage will also be extended to the domestic partner's children, providing the children meet the "Dependent Eligibility" requirements in the contract.
- COBRA is typically offered to Domestic Partners although it is not required under federal law.

*This information should not be considered legal or accounting advice, and is not intended to replace the services from competent legal and/or accounting professionals. Berg Andonian, Inc. (1-888-858-5115)*