

Don't Leave Domestic Partners in the Cold

by Marshall Miller and Dorian Solot

In light of same-sex marriage, some Massachusetts employers have announced they are eliminating their domestic partner benefits plans. They're making a big mistake.

The move may seem logical at first. Once two-brid and two-groom pairs can get a marriage license from any city clerk's office in the state, some employers are thinking, why should unmarried gay couples continue to be eligible for joint health insurance? After all, we tell straight employees they have to get hitched if they want medical insurance for a partner.

Unfortunately, these employers are trying to fix one error by compounding it with another.

There are two different sets of rationale for why employers should offer domestic partner benefits. The first, standard business practice rationale goes like this: "All employees deserve equal pay for equal work. Benefits make up a significant part of several thousand dollars worth of each employee's compensation. In order to treat all employees fairly and equally, unmarried employees who are part of families should be able to receive family health insurance just as married employees can."

Ninety-two percent of the 7,300 employers around the country who offer domestic partner benefits used this rationale when they implemented their policies. As a result, their domestic partner policies are "inclusive" - that is, both same-sex and different-sex couples are eligible to receive them. Since these employers already don't require couples to marry to be eligible for benefits, none have said they plan to change their policies when same-sex marriage comes to town.

The second rationale why an employer should offer domestic partner benefits - the one used by the Massachusetts employers who are cutting benefits - is this: "Only married families should get health benefits. Gay employees can't get married. Let's offer them domestic partner benefits temporarily, until same-sex marriage is legalized." Eight percent of employers offering domestic partner benefits take this approach and limit their policies to same-sex couples.

This second approach is well-meaning, but there's a problem. Employers overstep their role when they restrict benefits to married families and deny them to unmarried ones, or inadvertently coerce unmarried families to marry because it's the only way to access quality health care. What will these employers do about their employees who live outside Massachusetts, where same-sex marriage isn't available? Is it worth the cost of administering multiple benefits plans for employees in different states? What if same-sex marriage in Massachusetts is overturned? Are employers really going to require domestic partners to bring in their new marriage licenses? Do they ask the same of their straight married employees? Don't be surprised if you start seeing legions of bald human resources staffpeople - they'll be pulling out their hair trying to make sense of it all.

So a small number of well-meaning employers made their first error by adopting same-sex-only domestic partner policies.

Error two - still entirely preventable - is to eliminate their policies entirely. By doing so, they're forcing GLBT employees in same-sex relationships to marry in order to continue to receive the same benefits. They're continuing to deny equal benefits to unmarried employees. And perhaps most importantly to those who study the bottom line, they're putting themselves at a competitive disadvantage. One survey of 279 human resources professionals representing 19 industries found that domestic partnership benefits were among the top three most effective incentives for recruiting new hires. On average, domestic partner benefits increase a company's health care costs only 0.5% to 3%, yet they often yield major savings in employee recruitment and retention.

When Beth Israel Deaconess Medical Center recently announced plans to withdraw its domestic partner benefits policy, spokesman Jerry Berger said the advent of same-sex marriage is something to celebrate. We couldn't agree more. But the BI would be wise to celebrate by expanding its domestic partner benefits policy to the inclusive model, not by rescinding it entirely. If the BI and other employers with similar policies did so, they would join over 50 companies in Massachusetts who already provide health benefits to all employees' domestic partners without meddling in their marriage decisions, from FleetBoston to Gillette to New England Sinai Hospital. Even the American Medical Association's domestic partner plan is inclusive.

Loving, committed relationships and families come in many shapes and sizes these days: gay and straight, married and unmarried. How sadly ironic it is that as Massachusetts is on the verge of making history by recognizing same-sex marriages, some of the state's employers are making the decidedly regressive decision to eliminate their recognition of domestic partners. It's not too late to embrace the true spirit of equal pay for equal work, and recruit and retain top employees at the same time.

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