



The Case for Retaining Domestic Partner Benefits

Domestic partner benefits ensure that all employees will be treated equally. In the absence of full, explicit non-discrimination protections nationwide, the Supreme Court's decision on marriage equality does not erase the uncertainty that couples who decide to marry face in states without LGBTQ+ non-discrimination protections.

FOLLOWING THE OBERGEFELL MARRIAGE DECISION, HRC urged employers to maintain domestic partner benefits for their workers as a sign of sustained commitment to family diversity and to protect LGBTQ+ employees whose rights outside the workplace are not guaranteed by law in many states. Domestic partner benefits ensure that all employees will be treated equally. In the absence of full, explicit non-discrimination protections nationwide, the Supreme Court's decision on marriage equality does not erase the uncertainty that couples who decide to marry face in states without LGBTQ+ non-discrimination protections. That is why HRC is fighting for a federal LGBTQ+ non-discrimination bill that will address discrimination in credit, education, employment, federal funding, housing, jury service and public accommodations. HRC encourages employers to recognize the complexity of American families by committing to best practices and maintaining domestic partner benefits for their employees..

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Consider this situation:

Because of the 2015 Supreme Court decision in Obergefell, a healthcare system headquartered in Maryland decides to eliminate their same-sex domestic partner benefits program nationwide. An employee in one of their South Carolina hospitals is compelled to marry in order to access healthcare benefits for her partner.

After obtaining their marriage license, a document of public record, and uploading their wedding photos to Facebook, the employee's partner is legally fired from her job because of her sexual orientation. A week later, the couple is evicted from their rental home with no legal recourse.

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Marriage equality leaves LGBTQ+ employees open to risks and vulnerabilities that their non-LGBTQ+ counterparts do not face given current laws prohibiting discrimination based on race, color, religion, sex, national origin, disability or age. Without complete non-discrimination protections on the basis of sexual orientation and gender identity nationwide, same-sex couples can be denied credit, housing and public accommodation once they have been “outed” by their marriage license, which is a public document and a matter of public record.

Employers may inadvertently expose employees and their families to risks and vulnerabilities by only offering spousal benefits and requiring marriage in order to access benefits. While there is no legal obligation to provide domestic partner benefits, employers should retain their domestic partner benefits policies and expand them (where applicable) to include all couples—same-sex and different-sex—and their families as a matter of inclusion, fairness, equal compensation and good business.