

**State of Delaware**

**Office of Management and Budget, Statewide Benefits Office**

**13 Del.C. Chapter 2 “Civil Union and Equality Act of 2011” AKA Senate Bill 30**

**Frequently Asked Questions (FAQs)**

**1. What is the civil union legislation and when will it become effective?**

Legislation known as the “Civil Union and Equality Act of 2011” is effective as of 10:00 a.m. on January 1, 2012. A party to a civil union shall be included in any definition or use of the terms “dependent”, “family”, “husband and wife”, “immediate family”, “next of kin”, “spouse”, “stepparent” and other terms, whether or not gender-specific, that denote a spousal relationship or a person in a spousal relationship.

**2. What rights were created by the passage of the Civil Union and Equality Act of 2011?**

The Civil Union and Equality Act of 2011 creates a legal relationship of civil unions in the State of Delaware. The Act further recognizes legal unions between two persons of the same sex entered into jurisdictions outside of Delaware provided that such unions and the parties thereto meet Delaware eligibility requirements to enter into a civil union in the State of Delaware. Persons who enter into a lawful civil union in Delaware on or after January 1, 2012 or whose legal union is recognized under Delaware law on or after January 1, 2012, will have the same rights, benefits, protections, and responsibilities as married persons under Delaware law.

**3. What other states or jurisdictions recognize civil unions or same-sex marriages?**

Other states (or jurisdictions) that recognize civil unions or same-sex marriages, which will be recognized by the State of Delaware on January 1, 2012 include, but may not be limited to:  
California (performed from 5-15-08 to 11-4-08);  
Connecticut (civil union performed from 10-1-05 to 9-30-10 then merged into marriage 10-1-10);  
Coquille Indian Tribe, Oregon (as of 5-20-09);  
District of Columbia (as of 3-3-10);  
Hawaii (as of 1-1-12);  
Illinois (as of 6-1-11);  
Iowa (as of 4-3-09);  
Massachusetts (as of 5-17-04);  
New Hampshire (as of civil union 1-1-08 to 12-1-09 then merged into marriage 1-1-10);  
New Jersey (as of 2-19-07);  
New York (as of 7-24-11);  
Rhode Island (as of 7-2-11); and  
Vermont (as of civil union 7-1-00 to 8-31-09; and same-sex marriage as of 9-1-09).

This may not be an exhaustive list of all jurisdictions, particularly outside of the United States.

**4. What is the term used to describe the legalization of a civil union?**

The term, under Delaware law, to legally join two same sex spouses is “solemnization”.

**5. What is the termination of a civil union?**

The termination of a civil union results in a dissolution of the civil union or divorce.

**6. Can I add my civil union spouse and/or civil union spouse’s children to my benefits?**

Yes, you may add your civil union spouse and your civil union spouse’s children to the following benefits:

- Medical (which includes prescription coverage and Employee Assistance Program),
- Dental,
- Vision ,
- Life Insurance, and
- Flexible Spending Accounts (under certain circumstances).

**7. How do I enroll my civil union spouse and/or civil union spouse’s children in my State of Delaware benefit plans?**

Your point-of-contact is your Human Resources/Benefits Office within your agency or school. Detailed enrollment instructions are also available at <http://www.ben.omb.delaware.gov/cu>. Should you have concerns regarding your rights, benefits, protections, and responsibilities or cannot reach your Human Resources/Benefits Office, contact the Statewide Benefits Office at 739-8331 or 1-800-489-8933.

**8. When can I add my civil union spouse or civil union spouse’s children to my State of Delaware benefits?**

You may add your civil union spouse and/or civil union spouse’s children on your medical, dental or vision plan as listed below:

- If you had previously entered into a civil union or same sex marriage as legally authorized by another state or jurisdiction prior to January 1, 2012, you may enroll your civil union spouse and your civil union spouse’s children in your health benefits by January 31, 2012. Because the State of Delaware’s law is effective January 1, 2012, you are provided with 30 days to make changes due to a qualifying event. If you do not enroll your civil union spouse or civil union spouse’s children by January 31, 2012, you must wait until the next open enrollment.

- If you enter into a civil union on or after 10 A.M. on January 1, 2012, you may add your civil union spouse and/or civil union spouse's children to your health benefits within 30 days of the date of the civil union as this is a qualifying event. If you do not enroll your civil union spouse and/or civil union spouse's children within 30 days of the event you must wait until the next open enrollment.

**9. What documents must I provide to my Human Resources/Benefits Office to enroll my civil union spouse in my benefits?**

When you enroll your civil union spouse on your medical, dental or vision plan you must provide your Human Resources/Benefit Representative with the following documents:

- A copy of Certificate of Civil Union
- A completed Certification of Tax Dependent Status form for a Civil Union Spouse/Children available at <http://www.ben.omb.delaware.gov/cu> to properly assess federal taxes for benefits.
- An Enrollment Form available from your Human Resources/Benefits Office
- You must also complete the Spousal Coordination of Benefits form on-line at [www.ben.omb.delaware.gov/documents/cob](http://www.ben.omb.delaware.gov/documents/cob)

Go to <http://www.ben.omb.delaware.gov/cu> for complete instructions on how to enroll your civil union spouse in benefits.

**10. What documents must I provide to my Human Resources/Benefits Office to enroll my civil union spouse's children in my benefits**

When you enroll your civil union spouse's children on your medical, dental or vision plan you must provide your Human Resources/Benefits Office with the following documents:

- A copy of the child(ren)'s Birth Certificate or Adoption Documents; and
- A completed Certification of Tax Dependent Status form for a Civil Union Spouse/Children available at <http://www.ben.omb.delaware.gov/cu> to properly assess federal taxes for benefits (see question 13 below for more information on tax dependent status).
- You must also complete the Adult Dependent Coordination of Benefits form for children who turn 21 prior to December 31 of the prior year. The Adult Dependent Coordination of Benefits Policy and form is available at <http://www.ben.omb.delaware.gov/documents/cob> The form must be printed, completed, and returned to your Human Resources/Benefits Office. Your Human Resources/Benefits Office is responsible for forwarding the Adult Dependent Coordination of Benefits form to your medical care plan provider and maintaining the form in your health file for future auditing purposes. This form is not required if you are enrolling in a CDH Gold medical plan, or if you are only enrolling the adult dependent in a dental and/or vision plan.

Go to <http://www.ben.omb.delaware.gov/cu> for complete instructions on how to enroll your civil union spouse's children in benefits.

**11. What does the term “imputed income” mean with respect to a civil union?**

The term imputed income is defined by the Internal Revenue Service (IRS) to be the value of a benefit or service which is considered to be part of an employee's income for the purpose of calculating an employee's federal tax liability. Premiums (the monthly cost) for medical care coverage is shared by the State of Delaware (as the employer) and by the employee. The portion paid by your employer, State of Delaware, for your civil union spouse or your civil union spouse's children who are not your tax dependents is considered to be imputed income. Federal tax will be deducted from the employee's pay on the amount of imputed income. Imputed income will be reported by the State of Delaware on the employee's annual W-2 form for inclusion in the employee's federal tax return.

**12. Why do I have to pay imputed income for the employer paid health benefits provided to my civil union spouse and civil union spouse's children?**

The Federal Defense of Marriage Act (DOMA), continues to define a “spouse” as a husband or wife of the opposite sex. This means that while a same-sex couple's union is recognized by the State of Delaware, it is not recognized for the purposes of accessing marriage benefits in federal law. This means health benefits cannot be deducted on a pre-tax basis and the value of the benefit or service must be considered as part of an employee's income for the purpose of calculating federal tax liability.

**13. Can my civil union spouse and/or civil union spouse's children qualify as a tax-qualified dependent for health plan purposes?**

For a civil union spouse and/or civil union spouse's children to be a tax-qualified dependent for health care purposes, the civil union spouse and/or civil union spouse's children must meet the following requirements, in accordance with the Internal Revenue Code Section 152 (as modified by 105 (b)):

- Receive at least one-half of his/her support from you;
- Live with you as part of the same household;
- Not be claimed as a “qualifying child” dependent by anyone else;
- Be a U.S. citizen, a U.S. national, or a resident of the U.S., Canada, or Mexico at some time during the year in which you are claiming him/her as a dependent; and
- Not file a joint federal income tax return (other than for a claim of refund) with the individual's spouse (applicable to children of civil union spouse).

**14. What is the Certification of Tax Dependent Status for a Civil Union Spouse/Children form?**

The Certification of Tax Dependent Status for a Civil Union Spouse/Children form provides for the employee to designate his/her civil union spouse and each civil union spouse's child as either a "tax-qualified dependent" or "not a tax-qualified dependent". You, as the employee, are required to complete this form when enrolling your civil union spouse and your civil union spouse's children. Once you have designated the tax dependent status of your civil union spouse and/or civil union spouse's children by checking the appropriate box, refer to the Coverage Code Explanations to choose the applicable coverage code which must be entered on the Certification of Tax Dependent Status form. The completed form must be provided to your Human Resources/Benefits Office to be included in your file in the event of a future audit by the Statewide Benefits Office. You are responsible for submitting a new form any time the status of your civil union spouse or your civil union spouse's children's tax dependency changes.

The Certification of Tax Dependent Status for a Civil Union Spouse/Children form and additional information on civil unions is available at <http://www.ben.omb.delaware.gov/cu>.

**15. What if I am unsure if my civil union spouse or his/her children satisfy the definition of a tax-qualified dependent?**

If you are unsure if your civil union spouse or your civil union spouse's children satisfy the definition of a tax-qualified dependent, you should consult with a tax accountant.

**16. Which benefits will be subject to imputed income?**

Only your medical benefits will have imputed income as the State of Delaware pays a large share of your premium each month. State of Delaware dental and vision benefits are paid entirely by you each month, therefore, there is no imputed income for State of Delaware dental and vision benefits.

**17. How will I know how much imputed income will be assessed each month for medical benefits to cover my civil union spouse and/or civil union spouse's children?**

Review the document entitled *Coverage Code Explanation – Civil Union Spouse and/or Civil Union Spouse's Children* to determine what coverage code applies to your enrollment based on who you are covering on your benefit plans and the tax dependent status of those dependents.

- If the Coverage Code is M, N, O, T, U or V - No imputed income is applicable as all dependents are qualified tax dependents.
- If the Coverage Code is I, J, K, P, R, S, W, X, Y or Z – Refer to the *Civil Union Health Plan Rates* as imputed income will be calculated for all plans that include an employer paid (state share) portion as some dependents are not qualified as tax dependents. *Imputed income does not apply to 100% employee pay all plans (State dental and vision).*

**18. Will my monthly premiums be taken on a pre-tax or after-tax basis if I cover my civil union spouse and/or civil union spouse's children on my medical, dental and vision benefits?**

Review the document entitled *Coverage Code Explanations – Civil Union Spouse and/or Civil Union Spouse's Children* to determine what coverage code applies to your enrollment based on who you are covering on your benefit plans and the tax dependent status of those dependents.

- If the Coverage Code is M, N, O, T, U or V - Your monthly premiums will be taken on a pre-tax basis as all dependents are qualified tax dependents.
- If the Coverage Code is I, J, K, P, R, S, W, X, Y or Z – Refer to the *Civil Union Health Plan Rates* to determine what portion of the total monthly premiums will be taken as an after-tax deduction at the federal level.

**19. Can I submit health care expenses for my civil union spouse and/or civil union spouse's children for reimbursement through the State of Delaware's Flexible Spending Account (FSA) program?**

FSA is administered as required by the Internal Revenue Service (IRS), Section 125, which does not require "enrollment" of dependents as other benefit plans require. The IRS regulations provide for you to submit claims for reimbursement for your civil union spouse and/or your civil union spouse's children if they are "qualifying relatives" as defined by the IRS. See the Summary Plan Description at <http://www.ben.omb.delaware.gov/fsa> .

By signing a FSA claim form requesting to be reimbursed FSA monies, you attest that you are fully responsible for the sufficiency, accuracy, and veracity of all information related to the claim and that unless an expense for which payment or reimbursement claimed is a proper expense you may be liable for payment of all related taxes including federal, state, or local income tax amounts paid from the plan which relate to such expense.

If you entered into a civil union in a jurisdiction other than Delaware prior to January 1, 2012 and are currently enrolled in the FSA plan OR enter into a civil union on or after January 1, 2012 and are currently enrolled in the FSA plan, you may change your elected amount for calendar year 2012 only if your civil union spouse or civil union spouse's children were not your qualifying relative/s prior to the date of your civil union.

Additional information may be obtained by contacting the State of Delaware's FSA administrator, ASI, at 1-800-659-3035.

**20. What life insurance coverage options are available to eligible employees of a civil union on or after January 1, 2012?**

Employees who become party to a civil union on or after January 1, 2012 may automatically increase coverage by an additional one times annual base pay, up to a total amount not exceeding the lesser of three times annual base pay or \$200,000, without providing proof of good health, when a life event occurs (as long as the employee has not previously failed insurability requirements and applies for the additional coverage within 31 days of the life event). A life event is considered a civil union, marriage, birth and/or adoption.

**21. What effect does the Civil Union and Equality Act of 2011 have on who is eligible to enroll as a dependent in the Group Universal Life (GUL) and Accidental Death & Dismemberment (AD&D) program?**

The law extends eligibility for dependent life coverage to persons at least 18 years of age who are party to a civil union obtained or recognized in the State of Delaware on or after January 1, 2012. Individuals who entered into a civil union in another jurisdiction prior to January 1, 2012 will have 31 calendar days from January 1, 2012 to request a change to their dependent life enrollment from Minnesota Life without providing proof of good health. Dependent life enrollment requests received after 31 calendar days will require proof of good health by Minnesota Life.

The law also extends eligibility to a State of Delaware employee's civil union spouse's children, stepchildren and/or legally adopted children who are (a) unmarried; (b) are dependent on the employee for financial support; and (c) have not obtained the age of 19 years or have not attained the age of 24 years if a full-time student at an accredited educational institution are also eligible for enrollment in the dependent life program. Children age 19 years or older are eligible if they are physically or mentally incapable of self-support, were incapable of self-support prior to the date their insurance would otherwise have terminated and are financially dependent on the State of Delaware employee for more than one-half of their support and maintenance. Eligibility begins at live birth. Eligibility for a child ends at the end of the calendar year in which the child no longer meets the above requirements. Each parent may elect dependent coverage separately *if* both parents are benefit eligible active employees of the State of Delaware.

**22. What life insurance coverage options are available to eligible dependents of a civil union?**

Dependent life coverage is available for purchase by employees enrolled in the GUL and AD&D program. Dependent life coverage is Term Life insurance rather than GUL insurance, and there is no AD&D coverage for dependents. Employees may purchase spouse only coverage, child(ren) only coverage or spouse and child(ren) coverage. The cost for each is referenced below:

Spouse: \$20,000/\$7.05 per month

Spouse: \$10,000/ \$3.08 per month

Child: \$10,000 for each eligible child/\$1.16 per month (Covers all eligible children)

**23. How can I enroll my newly eligible dependents in life insurance?**

Employees enrolled in the GUL and AD&D program may enroll newly eligible dependents online through Minnesota Life's secure website at [www.lifebenefits.com](http://www.lifebenefits.com). If this is the first time you are logging onto Minnesota Life's website, your user name will be your 6 digit State of Delaware employee ID number with the letter "d" in front of it. The password is your eight digit date of birth (mmddyyyy) plus the last 4 digits of your Social Security number. You will be required to change your password when you enter the site for the first time. If you have previously logged onto Minnesota Life's website and don't remember your password, please contact Minnesota Life at 1-877-215-1489 or by email at [lifebenefits@securian.com](mailto:lifebenefits@securian.com) to request password assistance.

Employees without internet access can complete a paper application contained in the rear section of the enrollment application posted on our website at [http://www.ben.omb.delaware.gov/life/documents/enrollment\\_booklet\\_070109.pdf](http://www.ben.omb.delaware.gov/life/documents/enrollment_booklet_070109.pdf) and return it directly to Minnesota Life at the following address:

Minnesota Life  
ATTN: B2-4256  
Group Insurance Division  
400 Robert Street North  
St. Paul, MN 55101-9988

**24. When will life insurance coverage become effective?**

Coverage not requiring proof of good health will become effective the first of the following month (not counting legal holidays and approved leaves) following receipt of application for enrollment. Dependent life elections made after your initial eligibility period will be effective on the date coverage is approved by Minnesota Life. Life insurance coverage is billed on the first day of the month following the date coverage is approved.

**25. What happens if I previously ported life insurance coverage and am no longer actively employed in a benefits eligible position with the State of Delaware and enter into a civil union? Are my dependents eligible for enrollment?**

Only the dependents of actively employed benefits eligible employees are eligible for enrollment in the life insurance program.

**26. Where can I find more information on the GUL and AD&D program?**

Please log onto the Statewide Benefits Office website at <http://www.ben.omb.delaware.gov/life/index.shtml>.

**27. Who do I contact if I have questions about life insurance?**

You may contact Minnesota Life directly at 1-877-215-1489 or by email at [lifebenefits@securian.com](mailto:lifebenefits@securian.com) between the hours of 8:00 am and 7:00 pm ET, Monday through Friday. You may also contact Leslie Ramsey of the Statewide Benefits Office at 302-739-8331 or by email at [leslie.ramsey@state.de.us](mailto:leslie.ramsey@state.de.us).

**28. What is my responsibility in regard to benefit coverage if my civil union spouse and I dissolve our civil union relationship?**

Should you and your civil union spouse dissolve your relationship, the court of jurisdiction will issue the appropriate decree. It is your responsibility to provide your Human Resources/Benefits Representative with a copy of the decree within 30 days of the date of the decree. Coverage for your former civil union spouse will be terminated the day after the date of the decree.

If you do not provide notice to your Human Resources/Benefits Representative, you will be held financially responsible for all costs incurred by the State of Delaware for premiums and claims processed from the day after the issuance of the decree which dissolved your civil union.

**29. Can my former civil union spouse and/or my former civil union spouse's children continue to participate in medical (including prescription and employee assistance program), State dental, State vision, and flexible spending account programs via COBRA?**

Yes, your former civil union spouse and/or your former civil union spouse's children may continue to participate in these benefit programs. Your Human Resources/Benefits Representative will process the required documentation upon receiving the Dissolution Decree as long as it is provided within the required time frame.

**30. If my civil union spouse is also a State of Delaware employee, in a benefit eligible position, or a State pensioner will we be provided Double State Share?**

No, civil unions are recognized by the State of Delaware effective January 1, 2012. Only individuals who are benefit eligible employees and/or pensioners prior to January 1, 2012 and whose marriage is recognized by Delaware law prior to January 1, 2012 are eligible to receive DSS.

**31. Will my civil union spouse, upon my death as a State of Delaware pensioner or as an employee in a benefit eligible position and vested in the State of Delaware's pension plan, receive survivor's benefits?**

Yes, your civil union spouse will upon your death as a State of Delaware pensioner or as an employee in a benefit eligible position and vested in the State of Delaware's pension plan receive survivor's benefits.

**32. Who should I provide documentation regarding pension survivor benefits?**

Your Human Resources/Benefits Office will provide the Pension Office with a copy of a Civil Union Certificate or decree dissolving your civil union, to be used for future pension purposes including survivor benefits.