



COUNTY ADMINISTRATOR
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TO: Barbara Levin Bergman
Chair, Ways & Means Committee

THROUGH: Robert E. Guenzel
Washtenaw County Administrator

FROM: Diane M. Heidt
Human Resources / Labor Relations Director

RE: Approval of Other Eligible Adult Benefits

DATE: September 19, 2007

RECOMMENDED ACTION

It is recommended that the Washtenaw County Board of Commissioners authorize the implementation of Other Eligible Adult benefits, as well as recommended procedures and summary of benefits (as attached).

BACKGROUND

On November 30, 2000, the Board of Commissioners authorized Washtenaw County to offer domestic partner benefits to its employees. These benefits were implemented through letter agreements with the Unions and also extended to non-union employees. To be eligible for domestic partner benefits, an employee was required, in part, to register his/her relationship as a domestic partnership.

On November 2, 2004, Michigan voters approved the Marriage Amendment to the Michigan Constitution. This amendment states, "To secure and preserve the benefits of marriage for our society and for future generations of children, the union of one man and one woman in marriage shall be the only agreement recognized as a marriage or similar union for any purpose."

Following the passage of this Constitutional amendment, the group, National Pride at Work brought a declaratory judgment lawsuit against the Governor of the State to determine whether public employers could still provide domestic partner benefits given the passage of the Constitutional amendment.

While National Pride at Work succeeded at the Circuit Court level, the Attorney General intervened and the case was appealed to the Court of Appeals. In February 2007, the Court of Appeals reversed the Circuit Court's decision and held that it was improper for a governmental entity to use criteria that "recognized" domestic partnerships when determining who was eligible to receive benefits. The opinion, however, does not prohibit governments from offering benefits

to unmarried persons, so long as the criteria used to award those benefits, does not “recognize” a domestic partnership as a marriage.

Following this opinion, a number of governmental entities that had offered domestic partnership benefits to their employees, including the University of Michigan, Michigan State University, City of Ann Arbor, Ann Arbor Public Schools, Kalamazoo County and Washtenaw County, have revisited their domestic partner policies to rework those policies so that they will be acceptable under the Marriage Amendment to the Constitution.

The Attorney General has indicated that notwithstanding the Court of Appeals opinion, existing Domestic Partner benefits which are part of collective bargaining agreements will be permitted until those contracts expire. The Washtenaw County collective bargaining agreements expire on December 31, 2007. Accordingly, domestic partnership benefits will be valid until that date.

Open enrollment for 2008 employment benefits for County employees begins on October 1, 2007 and extends until October 12, 2007. Accordingly, the proposed “Other Eligible Adult” benefits proposed by this Resolution, should be decided by the Board of Commissioners prior to that date so that eligible County employees will have the option to choose to receive “Other Eligible Adult” benefits should such benefits be approved by the Board of Commissioners.

DISCUSSION

Washtenaw County has been reviewing and analyzing options to provide comprehensive healthcare coverage to all employee families who qualify as “Other Eligible Adults.” A summarization of comparable agencies offerings, cost/benefit analysis, and insurance carrier availability was performed. Specifically, the proposed and adopted policies for the University of Michigan, Michigan State University, City of Ann Arbor, Ann Arbor Public School and Kalamazoo County were reviewed. As a result of this analysis, Washtenaw County staff has developed and proposed a policy and procedure to provide health benefits to “Other Eligible Adults.”

Definition of Other Eligible Adult

For the purposes of this program, the definition and use of the term Other Eligible Adult shall only include the following:

Employee or Other Eligible Adult share a common residence and have done so for at least twelve (12) months with the intent to do so indefinitely; and
Other Eligible Adult is not eligible to inherit from the employee under the laws of intestate succession in the State of Michigan; and
Neither Employee nor Other Eligible Adult is married; and
Other Eligible Adult is not related by blood to a degree of closeness that would prevent legal marriage in Michigan; and
At least two of the following are true:

Employee or Other Eligible Adult have a common or joint ownership or lease of residence (home, condominium, apartment or mobile home); or
Joint ownership or lease of a motor vehicle; or
Employee or Other Eligible Adult have a joint checking account or savings account; or
Employee or Other Eligible Adult has a joint credit account.

At least one of the following is true:

Employee or Other Eligible Adult have durable power of attorney for health care for the other; or

Employee or Other Eligible Adult has durable power of attorney for financial management for the other.

The Other Eligible Adult has been designated as the primary beneficiary for at least one of the following:

A life insurance contract held by the Employee; or

The Employee's will or living trust; or

A retirement contract (including IRS, 401(k), 403(b), or pension plan held by the Employee.

Eligibility to continue coverage for an Other Eligible Adult will cease at the end of the month if the above criteria are no longer met. Employees must notify Human Resources immediately of any change in eligibility status.

Benefits Offered

It is the intent of this program to provide insurance coverage to Other Eligible Adults of County employees identical to those provided to spouses of County employees, wherever possible.

Healthcare plans offered through the Flexible Benefits Program,

Dental care through Delta Dental, or equivalent

Optical care through Blue Cross / Blue Shield at the employees expense, or equivalent

Eligibility

To be eligible, the employee must be a regular County employee, either part-time or full-time. The Employee and Other Eligible Adult must provide an executed **Application / Affidavit for Other Eligible Adult Benefits**. With this application / affidavit, the Employee and his/her Other Eligible Adult swear that the following facts are true:

They share the common necessities of life.

They are not related by blood in a manner that would bar marriage in the State of Michigan.

Neither one of them is married.

They are at least 18 years of age and otherwise competent to enter into a contract.

They share a common legal residence.

In addition, the Employee and Other Eligible Adult will be required to present evidence to prove mutual economic dependence, such as a joint lease, mortgage, or power of attorney. They will also be required to show evidence of common legal residence by presenting driver's licenses, voter registrations or other identification.

Fraud

The sworn **Application / Affidavit for Other Eligible Adult Benefits** provides acknowledgement by the participants that civil action may be brought against them for any losses or costs due to false statements or failure to notify Washtenaw County in the event of termination of the relationship. The application / affidavit contains a statement certifying that the facts represented are true and correct and that willful falsification of information could lead to disciplinary action up to and including discharge from employment.

Tax Information

The IRS has ruled that Other Eligible Adults can not be considered spouses for tax purposes. Employers are required to report and withhold taxes on the fair market value of the Other Eligible Adult coverage. This amount is usually the amount the employer contributes to the health plan to cover the Other Eligible Adult.

Therefore, health insurance and life insurance benefits provided to an Other Eligible Adult and his/her children will, under federal tax law, generally require taxation of the Washtenaw County contribution attributable to the Other Eligible Adult and his/her children. This tax will be deducted from the employee's paycheck.

However, if the employee's Other Eligible Adult meets the IRS definition of a "*dependent*" under the IRS, such benefits may be considered non-taxable. Internal Revenue Code (IRC) Section 152 defines a dependent as someone who resides in the employee's household and who receives at least half of their support from the employee.

Employees should consult a tax advisor before requesting this exemption to determine whether his/her Other Eligible Adult qualifies as a dependent.

IMPACT ON HUMAN RESOURCES

None

IMPACT ON BUDGET

None

IMPACT ON OTHER COUNTY DEPARTMENTS OR OUTSIDE AGENCIES

None

CONFORMITY TO COUNTY POLICIES

Conforms to County policies

ATTACHMENTS/APPENDICES:

Other Eligible Adult Procedure for Coverage and Summary of Benefits

A RESOLUTION AUTHORIZING THE IMPLEMENTATION OF "OTHER ELIGIBLE ADULT"
BENEFITS, AS WELL AS RECOMMENDED PROCEDURES AND SUMMARY OF BENEFITS

WASHTENAW COUNTY BOARD OF COMMISSIONERS

September 19, 2007

WHEREAS, on November 30, 2000, the Board of Commissioners authorized Washtenaw County to offer domestic partner benefits to its employees; and

WHEREAS, on November 2, 2004, Michigan voters approved the Marriage Amendment to the Michigan Constitution which states, "To secure and preserve the benefits of marriage for our society and for future generations of children, the union of one man and one woman in marriage shall be the only agreement recognized as a marriage or similar union for any purpose;" and

WHEREAS, National Pride at Work filed a lawsuit seeking a declaratory judgment on whether governmental entities could still provide domestic partner benefits after the passage of the Marriage Amendment to the Constitution; and

WHEREAS, in February 2007, the Court of Appeals held that it was improper under the Marriage Amendment to the Constitution for a governmental entity to use criteria that "recognized" domestic partnerships when determining who was eligible for governmental benefits; and

WHEREAS, the Court of Appeals also indicated that governmental entities could offer benefits to unmarried individuals, so long as the criteria used to determine eligibility for those benefits does not "recognize" a domestic partnership as being equal to a marriage; and

WHEREAS, following the Court of Appeals decision, a number of governmental entities, including the University of Michigan, Michigan State University, City of Ann Arbor, Ann Arbor Public Schools, Kalamazoo County and Washtenaw County began to review and revise their policies on granting benefits to unmarried individuals to insure that they would not violate the Marriage Amendment to the Constitution; and

WHEREAS, the County's Human Resources Department and Corporation Counsel have worked closely with these governmental entities and after having reviewed their proposed policies, have developed a proposed Policy and Procedure to offer benefits to those individuals who qualify as "Other Eligible Adults;" and

WHEREAS, this matter has been reviewed by the County Administrator's Office, the Finance Office, Human Resources, Corporation Counsel and the Ways & Means Committee

NOW THEREFORE IT BE RESOLVED that the Washtenaw County Board of Commissioners hereby authorizes the implementation of an Other Eligible Adult benefits and recommended procedures and summary of benefits provided, as attached hereto and made a part hereof

BE IT FURTHER RESOLVED that the described Other Eligible Adult benefits shall be extended to Non-Union employees and that the Washtenaw County Board of Commissioners hereby authorizes the County Administrator to negotiate said benefits with the various union groups

BE IT FURTHER RESOLVED that the Washtenaw County Board of Commissioners directs the Human Resources Department to make the necessary changes and/or modifications to the existing employee benefits policies as referenced in Volume II so that the extension of Other Eligible Adult benefits is included and not conflicting with the exiting policy language

OTHER ELIGIBLE ADULT Procedure for Coverage

Definition of Other Eligible Adult

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Neither Employee nor Other Eligible Adult is married; and
Other Eligible Adult is not related by blood to a degree of closeness that would prevent legal marriage in Michigan; and

At least two of the following are true:

Employee or Other Eligible Adult have a common or joint ownership or lease of residence (home, condominium, apartment or mobile home); or
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A life insurance contract held by the Employee; or
The Employee's will or living trust; or
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It is the intent of this program to provide insurance coverage to Other Eligible Adults of County employees identical to those provided to spouses of County employees, wherever possible.

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Tax Information

The IRS has ruled that Other Eligible Adults can not be considered spouses for tax purposes. Employers are required to report and withhold taxes on the fair market value of the Other Eligible Adult coverage. This amount is usually the amount the employer contributes to the health plan to cover the Other Eligible Adult.

Therefore, health insurance and life insurance benefits provided to an Other Eligible Adult and his/her children will, under federal tax law, generally require taxation of the Washtenaw County contribution attributable to the Other Eligible Adult and his/her children. This tax will be deducted from the employee's paycheck.

However, if the employee's Other Eligible Adult meets the IRS definition of a "*dependent*" under the IRS, such benefits may be considered non-taxable. Internal Revenue Code (IRC) Section 152 defines a dependent as someone who resides in the employee's household and who receives at least half of their support from the employee.

Employees should consult a tax advisor before requesting this exemption to determine whether his/her Other Eligible Adult qualifies as a dependent.

Obtaining Coverage

Annual Open Enrollment Period: Each Fall, the Human Resources Department holds the annual Open Enrollment Period during which employees can change benefits, including adding or deleting persons covered under their benefits. Any additions made during Open Enrollment are effective January 1 of the following calendar year.

New Hire: For a newly hired employee at Washtenaw County, benefits are effective the 1st of the month following regular new hire status. If an employee desires coverage for his/her Other Eligible Adult, they will need to list him or her on the application completed at the time of New Hire Orientation with the Human Resources Department. Both the employee and his/her Other Eligible Adult will have the same effective date of coverage.

Other Qualifying Events: If an employee's Other Eligible Adult involuntarily loses his/her group health benefits, he/she may be enrolled in the employee's Washtenaw County coverage. A letter from the Other Eligible Adult's employer is required indicating the date and reason for termination of coverage. This addition must be done within thirty (30) days of the date of the Other Eligible Adult's loss of coverage. If notification is provided within 30-days of the qualifying event, coverage shall be effective the date of the qualifying event. If not completed within the first thirty (30) days, the Other Eligible Adult must wait to be added during the annual Open Enrollment Period.

Summary of Benefits Provided

Washtenaw County provides County employees with health care, dental care and life insurance benefits under the terms and conditions of fifteen (15) collective bargaining agreements, as well as by way of County Policy. In addition, optical and long-term disability insurance are provided for employees in the Flexible Benefit Program. These benefits are also provided to employees in accordance with applicable State and Federal laws and regulations.

The County provides these benefits to the covered employee groups in a complex program of insurance and self-insurance. This program is designed to make the best use of insurance market conditions with the ultimate goal of self insuring predictable losses and protecting against catastrophic losses.

Health Care

Employees may enroll in one of the following programs:

Preferred Provider Organization (PPO)

Traditional Blue Cross / Blue Shield, in which there are currently two program options

Waiver program

The Blue Cross / Blue Shield program are the basic foundation of the health care programs available to the County's employee groups. All Blue Cross / Blue Shield contracts are Self-Insurance Retention (SIR) programs, from the first dollar of incurred costs to \$75,000 of loss. Once a specific claim reaches the \$75,000 attachment point in a policy year, the remainder of the loss during the policy year (January 1 to December 31) will be paid by the insurance carrier.

The County also purchases aggregate stop loss coverage insuring the County's SIR program from an aggregate catastrophic loss during the policy year. This policy is purchased to protect the County from a series of high frequency, but lower severity, losses which would cause a drain of County resources. Blue Cross / Blue Shield of Michigan provides the specific and aggregate stop loss coverage.

Blue Cross / Blue Shield Comprehensive Major Medical (CMM250) covers benefits up to a lifetime maximum of five (5) million dollars per member. CMM250 generally provides for 80% of covered expenses above the deductive amount of \$250 for one person and \$500 for two or more people each calendar year. The remaining 20% of expenses are covered by the employee (a co-payment). Co-payments for CMM250 coverage in one calendar year shall not exceed \$1,000. This maximum does not apply to co-payments for the treatment of mental disorders, private duty nursing or prescriptions.

Blue Cross / Blue Shield Basic plus Master Medical (MM50) covers Master Medical benefits up to a lifetime maximum of one (1) million dollars per member. MM50 generally provides for 90% of covered expenses above the deductive amount of \$50 for one person and \$100 for two or more people each calendar year. The remaining 10% of expenses are covered by the employee (a co-payment). Co-payments for Master Medical service coverage in one calendar year shall not exceed \$1,000. This maximum does not apply to co-payments for the treatment of mental disorders, private duty nursing or prescriptions.

The **Blue Cross / Blue Shield Community Blue PPO** program creates two (2) varying levels of coverage depending on whether the medical provider participates. If a member seeks treatment with a preferred provider, the following co-pays would be applicable: \$10 for office visits, \$50 for emergency room, 50% for mental health, and \$5 for prescriptions. This program also incorporates up to \$250 of preventative care benefits as long as the member stays within the network of providers. If a member chooses to seek treatment outside the PPO network, they would typically be subject to a \$250/\$500 deductible and 20% co-pay, similar to the CMM250 product. Preventative services are not covered outside the PPO network. Employees may add various riders to the basic PPO reducing emergency room co-pays and/or increasing mental health coverage.

Dental Care

Washtenaw County's CORE dental plan provides a \$750 annual maximum benefit. Another option that is available to Flexible Benefit Program participants offers different co-pays and dollar maximums. Both options emphasize and provide services, which stress the prevention and elimination of dental disease, as well as providing contracts with participating dentists who agree to accept predetermined fees for specific services.

Optical Care

The vision care option, which the employee is obligated to pay 100% of premiums and is only available to Flexible Benefit Program participants, provides for vision care tests and supplies when obtained from a participating provider after the County employee has paid the required co-payment.

Life Insurance / Accidental Death and Dismemberment (AD&D) Insurance

Washtenaw County's core plan is equal to an employee's annual salary in Life Insurance / AD&D benefits to a maximum \$50,000 for Flexible Benefit Program participants.

In addition to this basic coverage, Flexible Benefit Program participants have two (2) supplemental options available including two (2) times the employee's salary with a maximum of \$100,000, as well as three (3) times the employee's salary with a maximum of \$150,000.

Health & Dependent Care Spending Accounts (Section 125 Benefits)

These benefits would not be available as the IRS does not allow or recognize Other Eligible Adults.