

# HR Brief

## Same Gender Marriage

### Carriers Start Offering Special Enrollment Periods In Light of Obergefell Decision

**Quick facts:**

- On June 26, 2015, in *Obergefell v Hodges*, the Supreme Court legalized same-gender marriage. SCOTUS utilized the 14th Amendment to hold same-gender couples have a fundamental right to marry in all states, and that all states must recognize legally recognize same-gender marriages lawfully licensed in other states.
- Some insurer carriers are beginning to offer special enrollment periods in light of the Obergefell decision. However, special enrollment periods vary by carrier, so plan administrators will need to monitor what their insurance carriers are doing in light of this recent decision.

As mentioned in our last article, the U.S. Supreme Court, in *Obergefell v. Hodges*, ruled that the U.S. Constitution **guarantees same-gender couples the right to marry**. The Supreme Court’s ruling means that same-gender couples have the right to be married in their own states and to have their marriages recognized as valid in every other state.

**When Must Compliance Begin?**

The ruling is effective immediately, which means all states must start (or continue) issuing marriage licenses to same-gender couples on the same terms as opposite-sex couples.

Although the federal government has yet to weigh-in with official guidance regarding how this ruling will effect future welfare benefits (including health benefits), some insurance carriers have begun issuing guidance that they will offer a special enrollment period for same-gender spouses in light of the *Obergefell* decision.

Below is a chart of the carriers who have issued statements thus far providing information regarding the special enrollment periods they have established.

INSURANCE CARRIER	SPECIAL ENROLLMENT PERIOD
<b>Aetna</b>	<p><u>Same-gender spouses who have celebrated a marriage prior to June 26, 2015:</u> Members not previously allowed to enroll their same-gender spouses in their fully insured plan will have 31 days from June 26, 2015 to enroll their spouses (i.e., must apply for benefits on or before <b>July 27, 2015</b>).</p> <p>Members married on or after June 26, 2015, will have 31 days from the date of marriage to enroll their spouse.</p>
<b>Assurant</b>	<p><u>Same-gender spouses who have celebrated a marriage prior to July 16, 2015:</u> Non-employee same-gender lawful spouses (and the dependent children of non-employee same-gender lawful spouses) will be considered timely applicants under Assurant employee benefits’ policies if they apply for benefits on or before <b>August 15, 2015</b>.</p> <p>All lawful spouses who celebrate a marriage (whether same-gender or opposite sex) on or after July 16, 2015, will be considered timely applicants if they apply for benefits within the time periods allowed under the applicable policy (i.e., typically 31 days from the date of celebration of the marriage for life, dental and vision insurance, and 90 days from the date of celebration of the marriage for cancer, accident and critical illness insurance, but check your applicable policy).</p>

See next page for additional carriers ...

INSURANCE CARRIER	SPECIAL ENROLLMENT PERIOD
<b>BCBSM/BCN</b>	<p>Special enrollment period for same-gender spouses and eligible dependents not previously enrolled will start July 16, 2015 and continue through <b>September 1, 2015</b>.</p> <ul style="list-style-type: none"> <li>➤ Effective date of coverage will be no earlier than June 26, 2015 or the date of marriage if it occurred after June 26, 2015.</li> <li>➤ After the special enrollment period is over, normal enrollment process rules apply and spouses can be added when a qualifying event occurs. (Note: Same gender couples must be legally married to add a spouse to their coverage.)</li> </ul>
<b>HAP</b>	<ul style="list-style-type: none"> <li>➤ <u>Marriages that took place prior to June 26, 2015</u>: The spouse must be enrolled within 60 days of the date the law changed (i.e., by <b>August 25, 2015</b>). The effective date of coverage will be the date the law became effective, June 26, 2015.</li> <li>➤ <u>Marriages that take place after the law changed on June 26, 2015</u>: The spouse must be enrolled within 31 days</li> </ul>
<b>Priority Health</b>	<ul style="list-style-type: none"> <li>➤ <u>Spouses who have celebrated a marriage prior to June 26, 2015</u>: Members not previously allowed to enroll their spouse will have 31 days from June 26, 2015 to enroll their spouses in Priority Health coverage (i.e., must apply for benefits on or before <b>July 27, 2015</b>). This special enrollment period is applicable for any legal marriages, including same-gender.</li> <li>➤ Members married on or after June 26, 2015, will have 31 days from the date of marriage to enroll their spouse.</li> </ul>
<b>United Healthcare (UHC)</b>	<p><u>Same-gender spouses who have celebrated a marriage prior to June 26, 2015</u>: Members not previously allowed to enroll their same-gender spouses will have 31 days from June 26, 2015 to enroll their spouses (i.e., July 27, 2015). UHC is allowing spouses to be added through <b>July 31, 2015</b>.</p> <p>Employers who offer coverage for spouses will now be required to provide coverage to same-gender spouses if they aren't already.</p> <ul style="list-style-type: none"> <li>➤ If an employer already offered coverage during the past open enrollment, then the spouse will need to wait until the next open enrollment.</li> <li>➤ If coverage was not offered before, the spouse will have until July 31, 2015 to sign up for the employer's plan or wait until the next open enrollment.</li> <li>➤ A newly married employee may continue to add his or her spouse following the marriage as permitted under the special enrollment guidelines.</li> </ul>

We will continue to supplement this chart with additional carriers that release special enrollment periods for same-gender marriage as that information becomes available. Please contact your Kapnick Client Executive for more information.

The health care reform law—the Affordable Care Act (ACA)—has many complex requirements for employers and health plans. Please contact Kapnick Insurance Group with any questions about how you can prepare for any of the health care reform requirements. This Kapnick Insurance Group Update is not intended to be exhaustive nor should any discussion or opinions be construed as legal or tax advice. The information contained in this communication is intended to provide general information regarding health care reform and related topics, and is based on general information available at the time it was prepared. Readers should contact their tax and/or legal counsel for advice that is appropriate to their specific circumstances. This information cannot be used by any taxpayer to avoid tax penalties.