



State & Local Compliance Update

USI EMPLOYEE BENEFITS

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Oregon Expands Domestic Partner Registration Eligibility

Currently, Oregon registered domestic partnership is limited to same sex couples. Effective January 1, 2024, Oregon will allow opposite sex couples to register their domestic partnership. Employers that sponsor fully insured plans¹ that cover registered domestic partners of employees may have more employees enrolling a registered domestic partner in the group health plan.

BACKGROUND

Under Oregon law, domestic partners who are registered with the state's domestic partner registry are generally afforded the same rights, protections, and benefits as are granted to spouses.²

Fully insured group health plans in Oregon as well as non-ERISA plans sponsored by state and local government employers that cover spouses of Oregon employees are required to provide coverage to registered domestic partners.

Self-funded plans covered by ERISA are not required to provide coverage for registered domestic partners. However, an employer sponsoring a self-funded plan may voluntarily choose to extend coverage to domestic partners, whether they are registered or based on the plan's domestic partner eligibility criteria.

Under Oregon law, in order to register a domestic partnership, a couple must file a notarized Declaration of Oregon Registered Domestic Partnership form with an Oregon county clerk. The form attests that the couple meets certain criteria at the time of filing. Until December 31, 2023, one requirement is that the couple are both members of the same sex.³

¹ The requirement to cover registered domestic partners applies to state and local governmental plans that are not ERISA covered.

² ORS 106.340

https://oregon.public.law/statutes/ors_106.340#:~:text=Any%20privilege%2C%20immunity%2C%20right%20or,granted%20on%20equivalent%20terms%2C%20substantive

³ Couples must meet the following requirements to file for Oregon Registered Domestic Partner status:

1. the couple must be 18 years of age or older,

HB 2032

On April 6, 2023, Oregon Governor Tina Kotek signed HB 2032 amending Oregon law to expand eligibility for Oregon Registered Domestic Partnerships.⁴ This new law eliminates the requirement that both domestic partners be of the same sex in order to register their domestic partnership. This change is effective January 1, 2024; opposite sex couples must wait until that date to file the required declaration form with a county clerk.

EMPLOYER NEXT STEPS

Employers with fully insured plans in Oregon must treat registered domestic partners on the same basis as spouses in the group health plan. This will extend to opposite sex couples who register under the expanded definition.

Employers with Oregon employees should review the eligibility terms in their plan documents, summary plan descriptions, employee handbook, open enrollment material, and other communications to see if there is a domestic partner definition that needs to be updated. No change to the term “registered domestic partner” is necessary, but any listing of the criteria to register a domestic partnership in Oregon will need to reflect the eligibility of opposite sex couples effective January 1, 2024.

Employers sponsoring a self-funded plan that has voluntarily extended coverage to domestic partners, and whose domestic partner eligibility allows same sex couples only, may consider amending the criteria to reflect the upcoming change in the eligibility for an Oregon registered domestic partnership.

Additionally, newly registered domestic partners would become eligible for coverage under a fully insured group health plan and would likely qualify for mid-year enrollment on the group health plan. However, the tax treatment of the employee cost for this coverage is subject to different rules at the state and federal level. Employers will want to confirm that their payroll tax reporting and cafeteria plan deductions comply with these tax rules.

As noted above, the requirement to cover registered domestic partners applies to all state and local governmental plans that are not covered by ERISA.

RESOURCES

- Oregon State Legislature website for HB 2032, <https://olis.oregonlegislature.gov/liz/2023R1/Measures/Overview/HB2032>
- Oregon Registered Domestic Partnership Website, <https://www.oregon.gov/oha/ph/birthdeathcertificates/registervitalrecords/pages/dp.aspx>

2. one partner must be a resident of Oregon,
3. neither partner can presently be in a marriage or a legally recognized registered domestic partnership; and
4. (a) Until December 31, 2023 – both partners must be of the same sex (b) on or after January 1, 2024 partners may be of any sex. <https://www.oregon.gov/oha/ph/birthdeathcertificates/registervitalrecords/pages/dp.aspx>

⁴ <https://olis.oregonlegislature.gov/liz/2023R1/Downloads/MeasureDocument/HB2032/Enrolled>

- **Oregon Registered Domestic Partnership FAQ,**
<https://www.oregon.gov/oha/PH/BIRTHDEATHCERTIFICATES/REGISTERVITALRECORDS/Documents/DomPart/dpfaq.pdf>

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