

October 18, 2017

Wisconsin Eliminates Domestic Partner Coverage for Public Sector Employees

The State Budget Bill enacted on September 21, 2017 contained important changes for local government employers. Wisconsin law will preclude local government employers from offering domestic partner coverage for public sector employees. This change affects both those public employers who participate in Wisconsin Department of Employee Trust Funds group health plan (ETF Plan) and those with fully insured or self-funded programs.

- **ETF Plans:** Under amended Wis. Stat. § 40.51(2m) domestic partners may not receive coverage under a group health insurance plan. ETF has announced that it will no longer offer coverage to domestic partners effective January 1, 2018.
- **Plans Outside ETF:** Under newly adopted Wis. Stat. § 66.0510 governmental units may only provide employee benefits to its officers, agents, employees, their spouses, and their dependent children. As written, the provision does not give local government units discretion to go beyond these parameters to offer coverage to domestic partners. This provision generally becomes effective April 1, 2018.
 - **Delayed Effective Date for Some Plans:** For plans governed by a collective bargaining agreement or other contract *that contains provisions inconsistent with this statutory change*, the prohibition against offering domestic partner coverage applies on the day the agreement or contract expires or is terminated, extended, modified, or renewed.

Although the dust is still settling on this change, public sector employers will need to factor this provision into their coverage planning and determine how to message this to their employees. For many plans, this change would take effect during the middle of the plan year. It is unclear whether the

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state will grant temporary relief from these provisions to permit compliance after the end of the plan year in which the change takes effect.

Also unclear is the obligation to offer continuation coverage. COBRA does not recognize domestic partners as qualified beneficiaries. The Budget Bill does not address whether continuation coverage can be offered to domestic partners. That said, ETF has announced a plan to provide continuation coverage to domestic partners who are losing coverage.

Employers working through these issues should reach out to their attorneys, brokers, and/or third party administrators to ensure compliance with legal requirements. If you have any questions regarding this change, or other matters related to health coverage, please contact your Michael Best attorney.

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