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*Julie assists with a variety of compliance issues related to employee benefits and the ACA, ERISA and other federal and state regulations.*

## Employee Benefits – Question of the Month

September 2019

**Q:** For the first time, we have an employee with a same-sex spouse. I've been looking over our benefits to make sure I understand what is available to them, and I'm panicking a bit! I guess I assumed that all of our benefits were available to same-sex spouses the same as for any other married couple, but it doesn't look like that's the case. Some of our benefits certificates say "legally married spouses" are eligible for coverage (yay!), but others either don't define "spouse" or specifically say coverage is available only to "opposite-sex spouses." What do we need to do to make sure all benefits are available to all legal spouses, both opposite-sex and same-sex?

**A:** First off, don't panic! Even though same-sex marriage was legalized several years ago, these types of issues can still arise for several reasons, including:

1. If you're self-insured and working with a TPA, they may be waiting for you to tell them that you want to cover same-sex spouses. (This is almost certainly the case on the benefits that still say coverage is available only to opposite sex spouses.) I know it seems counter-intuitive, but these types of changes aren't always automatic for self-insured plans. As your broker, we can work with you and your TPA to make sure coverage is available to same-sex spouses and the documents are revised if necessary.
2. The benefits are already available to same-sex spouses but, because some carriers have weird or unreliable methods of updating and distributing documents:
  - They haven't updated their certificates with a new definition for spouse, OR
  - They updated their certificates and you didn't get a copy, OR
  - The new language is in an amendment or rider that you're unaware of or has been misplaced, OR
  - Other similar reasons.

Again, we can work with your carriers to make sure the correct definition is being used and your certificates and other materials are updated if necessary.

Feel free to contact me if you have any additional questions at [juliea@millercares.com](mailto:juliea@millercares.com).

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