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To: Eligibility Services – Regional Directors
Program Managers
Eligibility Services Supervisors
Regional Attorneys
Hearings Officers

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Subject: Recognition of Same-Sex Marriages

This bulletin is being sent to supervisors and other regional managers. Supervisors must share this information with all Texas Works staff. Please ensure copies are provided to staff that do not have access to e-mail. If you have any questions regarding the policy information in this bulletin, follow regional procedures. Active bulletins are posted on the Texas Works Handbook (TWH) website at <http://www.dads.state.tx.us/handbooks/TexasWorks/>.

Recognition of Same Sex Marriages

On June 26, 2015, the United States Supreme Court issued a decision concluding that the United States Constitution "does not permit" a state to bar same-sex couples from marriage on the same terms as opposite sex couples. The decision invalidated state law to the extent that law excludes same-sex couples from civil marriage on the same terms and conditions as opposite sex couples. The Court also concluded that a state has "no lawful basis" for refusing to recognize a lawful same-sex marriage performed in another state "on the ground of its same-sex character."

This decision requires HHSC to revise current eligibility policies and procedures for the following programs:

- Temporary Assistance for Needy Families (TANF)
- Medicaid
- Children's Health Insurance Program (CHIP)

The SNAP policy was implemented August 14, 2015.

TANF and TANF SP

Current Policy

When determining eligibility for benefits, TWH A-221, Who is Included # 5, Second Parent, requires both legal parents who live with a child to be included in the TANF certified group. A legal parent is either biological or adoptive. The legal parent that is not identified as the caretaker is considered the second parent and also must be either a biological or adoptive parent.

A stepparent is defined in TWH A-221, Who is Included #7, Stepparents, as an individual who is not a child's legal parent but is the legal parent's spouse. Stepparents are included in the TANF certified group when the:

- Caretaker and stepparent have mutual children;
- Stepparent is the only parent in the home and wants to be included; or
- Legal parent is disabled and the stepparent wants to be included in the TANF certified group.

If the stepparent is not included in the TANF certified group, staff must use budgeting procedures in TWH A-1366, Stepparent EDGs, and TWH A-1247, Resources of Stepparents, to determine the amount of the stepparent's income and resources to apply to the TANF certified group.

In addition, TWH A-1369, New TANF Spouse's Earnings, requires staff to exclude the earnings of a TANF recipient's new spouse for six months after the date of the marriage if the total gross income of the budget group does not exceed 200 percent of the Federal Poverty Income Limit (FPIL).

New Policy

The policies and procedures that currently apply to opposite-sex marriages now apply to same-sex marriages.

Medicaid and CHIP

Current Policy

For Modified Adjusted Gross Income (MAGI) programs, family relationships that impact MAGI household composition include:

- Marriage
- Parents of children under age 19
- Siblings under age 19 of a child under age 19

The tax status of the individual impacts how the family relationship is used in determining MAGI household composition.

Texas does not recognize same-sex marriages when the couple is legally married in a different state or recognized as spouses for federal tax purposes. A same-sex couple cannot be considered married. Depending on the tax status for a MAGI-based eligibility determination, the

income (and resources for Medically Needy with Spend-down, Medically Needy with Spend-down - Emergency, and Refugee Medical Assistance) of the same-sex spouse may or may not be considered when determining eligibility. The same-sex spouse may or may not be considered when determining the household size.

For non-MAGI based eligibility determinations, Texas also does not recognize same-sex marriages. For non-MAGI programs, income and resources of a same-sex spouse are not considered and the same-sex spouse is not in the household.

New Policy

For both MAGI and non-MAGI eligibility determinations, the policies and procedures that currently apply to opposite-sex marriages now apply to same-sex marriages.

Prior Medicaid

When determining eligibility for a prior month, use the policies and procedures in effect for the month for which Medicaid coverage is requested when determining the MAGI or non-MAGI household composition.

Automation

Changes to the Texas Integrated Eligibility Redesign System (TIERS) to support the new policy will be included in a future release. Staff will be notified at such time.

Staff must use the following Contingency Processing Method (CPM) found here [Same-Sex Marriage CPM](#) (#594992 TIERS Entries for Same-Sex Marriages) when processing eligibility determinations for households with same-sex spouses until notified of system changes.

If staff comes across a situation in which the CPM is ineffective, please call the Help Desk. When communicating with the Help Desk staff, inform staff that you need assistance with a same-sex marriage case action.

In addition, when an individual reports his or her same-sex marriage using YourTexasBenefits.com, it will allow for the correct gender and relationship designation for same-sex couples. However, TIERS does not. Staff must use the provided CPM.

Effective Date

The new policy is effective as of the date of this bulletin for any application, renewal, or change disposed on or after the bulletin date for applications, renewals, or changes received on or after June 26, 2015.

If action has been taken on a same-sex marriage case prior to the release of this bulletin and the individual contacts HHSC, staff must reprocess the case, as appropriate.

Handbook

The Texas Works Handbook will be updated with the January 2016 revision.

Training

No training is required.