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EXECUTIVE COMMISSIONER

Date: August 25, 2015

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

From: Stephanie Stephens, Director
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Subject: Recognition of Same-Sex Marriages

Bulletins are sent to supervisors and other regional managers who must share the information with eligibility staff. Please ensure copies are provided to staff without access to email. For questions regarding the information in this memo, follow regional procedures. Find active bulletins at the following respective handbook websites:

- Medicaid for the Elderly and People with Disabilities (MEPD):
http://www.dads.state.tx.us/handbooks/mepd_policy/index.htm
- Texas Works:
http://www.dads.state.tx.us/handbooks/texasworks_bulletins/index.htm

Background

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.

Current Policy

Texas does not recognize same-sex marriages and a same-sex spouse is not considered when determining eligibility for Medicaid for the Elderly and People with Disabilities (MEPD) programs.

As defined in the MEPD Handbook, G-1200, Definitions, the definition of a couple is two people who live together and:

- present themselves to the community as husband and wife, intend to be married, and are considered to be married under state law;
- are determined to be husband and wife for purposes of receiving Social Security benefits; or
- are recognized as husband and wife under state law.

For MEPD eligibility determinations, the income and resources of a same-sex spouse are not considered when determining eligibility. The same-sex spouse is also not considered for purposes of spousal impoverishment, post-eligibility treatment of income (co-payment), transfers of assets, deeming, or Medicaid Estate Recovery Program (MERP).

Prior Medicaid

For MEPD eligibility determinations, a man and woman are married if they meet the definition of a couple as of the first moment of the month.

New Policy

When determining eligibility, the same policies and procedures that currently apply to opposite-sex marriages now apply to same-sex marriages, including policies and procedures for spousal impoverishment, co-payment, transfers of assets, deeming, and MERP.

Prior Medicaid

For Medicaid purposes, two individuals are married if they meet the definition of a couple as of the first moment of the month.

When determining eligibility for a prior month, use policies and procedures in effect for the month in which Medicaid coverage is requested when determining the marital relationship.

Automation

Changes to the Texas Integrated Eligibility Redesign System (TIERS) to support this 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. However, TIERS does not. Staff must use the provided CPM.

Handbook

The MEPD Handbook will be updated with the January 2016 revision.

Effective Date

The 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 makes contact with HHSC, staff must reprocess the case, as appropriate.

Training

No training is required.