

County Medical Services Program Guide (CMSPG) Letter #28

August 27, 2013

Subject TREATMENT OF SAME-SEX MARRIAGES FOR COUNTY MEDICAL SERVICES (CMS)

Effective Date June 28, 2013

Reference County Policy

Purpose To inform staff of a change in the treatment of same-sex marriage policy for CMS.

Background On May 26, 2009, the California Supreme Court ruled that Proposition 8 defined marriage as a union between one man and one woman. However, same-sex marriages which occurred before the November vote would remain valid. Same-sex marriages lawfully performed within the State of California on June 17, 2008 through November 4, 2008 are considered valid. Same-sex marriages from other states were not recognized.

Highlighted Changes As a result of a United States Supreme Court ruling on June 26, 2013, the United States Court of Appeals for the Ninth Circuit on June 28, 2013 lifted its stay on the Federal District Court decision that found Proposition 8 unconstitutional. Same-sex marriages lawfully performed on June 28, 2013 and ongoing in California and in other jurisdictions outside of California will be considered valid.

Required Action Workers will evaluate same-sex couples as legally married when the marriage was performed in California between June 17, 2008 and November 4, 2008 and June 28, 2013 and ongoing or lawfully performed in another jurisdiction.

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**Forms
Impact**

No impact.

**Automation
Impact**

No impact.

**Scanning
Impact**

No impact.

**ACCESS
Impact**

No impact.

**Quality
Control (QC)
Impact**

Effective with the September 2013 review month, QC will cite the appropriate error on any case that does not comply with the requirements outlined in this letter.

**Summary of
Changes**

The table below shows the changes made to the CMSPG:

Section	Changes
Article 2, Section 23.01	Update to same-sex marriage

**Approval for
Release**

Pat White, Dep. Aidan 8-27-13

JP

Article 2 Section 23 Responsible Relatives

02.23.01B Same Sex Marriage and Registered Domestic Partners (RDP)

Same-sex Marriages Performed in California on June 17, 2008 through November 04, 2008

Same-sex marriages lawfully performed in California on June 17, 2008 through November 4, 2008 will be recognized by CMS. These persons will be evaluated as married couples. In accordance with California law (Prop 8), CMS cannot recognize same sex marriages performed in other jurisdictions outside of California.

Same-sex Marriages Performed in California and outside of California on June 28, 2013 and ongoing

Same-sex marriages lawfully performed in California between June 17, 2008 and November 4, 2008 and June 28, 2013 and ongoing and lawfully performed in other jurisdictions outside of California will be recognized by CMS. These persons will be evaluated as married couples.

California Registered Domestic Partners (RDP)

California Registered Domestic Partners (RDP) shall be treated the same as if the persons were spouses. RDP from other states and other countries shall be recognized as a valid partnership, if the partnership is substantially equivalent to California's RDP based on California Family Code § 297 – 297.5. A RDP which has been established outside of California must be reviewed by CMS Program to determine if the partnership is substantially equivalent to California's RDP.

Note: A self-declaration of the date and place the unions took place from RDP and same-sex married couples will be recognized as valid by a sworn statement. The worker shall give the applicant a sworn statement to complete. The sworn statement must contain the valid date the union was recognized in California.

CMSPG LTR 28 (08/13)