

TO: Local District Commissioners, Medicaid Directors, Temporary Assistance Directors, Legal Staff, Fair Hearing Staff and Staff Development Coordinators

FROM: Judith Arnold, Director
Division of Coverage and Enrollment

SUBJECT: Same-Sex Marriage Update - Marriage Equality Act

EFFECTIVE DATE: Immediately

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The purpose of this General Information System (GIS) message is to advise local departments of social services (LDSS) of an update to Medicaid policy regarding the treatment of legally performed same-sex marriages. The initial policy guidance regarding the treatment of same-sex marriages provided in GIS 08 MA/023 has not changed as a result of this update.

On June 24, 2011, Chapter 95 (Marriage Equality Act) and Chapter 96 (amending the religious exception language) of the Laws of 2011 were signed into law. These laws amended the Domestic Relations Law (DRL) to allow legally recognized, same-sex marriages to be performed in New York State. Chapter 95 also requires the equal treatment of married individuals, regardless of the couple's gender, by government agencies. It also declares that there are no differences in the legal rights and responsibilities of married individuals based on the parties to the marriage being of the same sex rather than a different sex.

Documentation of a legally recognized same-sex marriage is only necessary in the same limited circumstances as documentation of any other marriage (for example, when an individual seeks spousal budgeting for long term care).

In addition to consideration of the same-sex spouse as a legally responsible relative who is subject to all applicable Medicaid rules (including, but not limited to, those listed in GIS 08 MA/023), districts are reminded that the asset protections regarding Medicaid liens, estate recovery and transfer of asset rules that are available to an opposite-sex married couple are equally available to a same-sex married couple.