



Illinois Department of Insurance

Illinois Insurance Facts

Civil Unions and Insurance

Benefits

May 2011

Note: This information was developed to provide consumers with general information and guidance about insurance coverage and laws. It is not intended to provide a formal, definitive description or interpretation of Department policy. For specific Department policy on any issue, regulated entities (insurance industry) and interested parties should contact the Department.

Signed by Governor Quinn on January 31, 2011, the Religious Freedom Protection and Civil Union Act (Public Act 96-1513, the "Civil Union Law") will allow both same-sex and different-sex couples to enter into a civil union with all of the obligations, protections, and legal rights that Illinois provides to married heterosexual couples.

The Civil Union Law becomes effective on June 1, 2011. Below is a list of frequently asked questions about the Civil Union Law's impact on insurance laws and benefits in Illinois. Please call the Department of Insurance at (866) 445-5364 if you have a question we have not answered.

GENERAL QUESTIONS

A1) What is a civil union? How is a civil union different from marriage?

A civil union is a legal relationship granted to unmarried adult partners by the State of Illinois. The Civil Union Law ensures that civil unions and marriage are treated identically under Illinois law.

For purposes of Illinois law, and as used in this fact sheet, the term "spouse" (and other terms that denote the spousal relationship) now includes a party to a civil union. Federal law may impact how eligibility and benefits for certain insurance products are treated.

A2) What impact does the Civil Union Law have on insurance policies? How will the Law be interpreted?

For purposes of insurance laws, policies, eligibility, and benefits governed by Illinois law, a spouse in a civil union and a spouse in a marriage are to be treated identically.

The Civil Union Law will be "liberally construed and applied to promote its underlying purposes." If ambiguity exists about whether or how the Civil Union Law applies to an insurance law, regulation or policy, that ambiguity shall be resolved in favor of the individuals in the civil union.

A3) When does the Civil Union Law become effective?

The Civil Union Law becomes effective on June 1, 2011. All insurance policies issued on or after June 1, 2011, must immediately conform to the Civil Union Law. All in-force insurance policies subject to the Law (generally, all insurance policies issued in Illinois) are amended by operation of law to conform with the Civil Union Law on that date.

This means that all policies will, without any action on the part of the insurer, insured or certificate holder, be interpreted and enforced so as to provide the same benefits to spouses in a civil union and those in a marriage beginning June 1, 2011. For rating and underwriting purposes, the Civil Union Law shall be applied on issuance or renewal.

The Department has provided separate [guidance](#) to all insurers licensed to operate in Illinois to ensure that existing policy forms, applications, and other materials given to policyholders or applicants are amended in a reasonable but timely manner, and to ensure that policyholders and applicants are informed about the rights provided by the Civil Union Law.

A4) Does the Civil Union Law apply to domestic partners who are not joined in a civil union?

No. The Civil Union Law does not change the legal status, rights, or protections currently afforded to domestic partners. In order to receive the same legal status as married couples under State law, domestic partners must enter into a civil union as provided by the Civil Union Law.

A5) What proof of a civil union may an insurer require?

Insurers cannot impose more stringent requirements on policyholders, applicants or claimants to prove a civil union than are required to prove a marriage. An insurer cannot, for example, require certification or evidence that the couple joined by a civil union has a joint account, owns real estate jointly, or shares a residence, unless the insurer also requires the same certification or evidence of couples joined in marriage to prove the marriage.

HEALTH INSURANCE

B1) Do health insurance policies have to provide coverage for civil union spouses?

Health insurance policies and HMO contracts issued in Illinois must offer coverage to civil union couples and their families that is identical to the coverage offered to married couples and their families.

In other words, a policy that allows coverage for the married spouse of a policyholder must also allow coverage for the civil union spouse of a policyholder. Likewise, if the policy allows coverage for the dependent child(ren) of a married policyholder, it must also allow coverage for the dependent child(ren) of a policyholder in a civil union. Rates for two-person (spousal) coverage or family coverage must not differ based on whether the family consists of married or civil union spouses.

B2) When can I add my civil union spouse to my employer's health insurance plan?

If your employer's plan allows coverage for the spouses of employees, and the plan is subject to the Illinois Health Insurance Portability and Accountability Act (*i.e.*, it is provided through a group health insurance policy issued in Illinois), you will be allowed to add coverage for your civil union spouse:

- During your plan's annual open enrollment period; OR

- During a 30-day “special enrollment period” after the civil union becomes effective, or after your civil union spouse loses other coverage.

If you have entered into a civil union in another state before June 1, 2011, your employer plan must offer this 30-day special enrollment period beginning on June 1, 2011.

Coverage generally becomes effective on the first day of the first month following the completed request for enrollment.

You should consult with your insurance agent, insurer, or employer for more information about your plan’s open enrollment and special enrollment periods.

B3) If I cover my civil union spouse through my employer’s health insurance, is it taxable?

At the federal level, yes. Federal law does not recognize civil unions, and federal tax law provides that an employee providing coverage for a civil union spouse has “imputed income” equal to the excess of the fair market value of the coverage provided to the civil union spouse over the amount paid by the employee for such coverage. The imputed income is subject to federal income and payroll taxes.

Due to federal law, your civil union spouse also may not qualify for federal tax exemptions on insurance premiums that married couples receive.

For more information regarding federal tax questions, please consult a tax advisor.

B4) Are civil union spouses entitled to the same health insurance continuation rights as married spouses in the event of a job loss, retirement, death, or divorce?

Yes and no. Illinois law allows individuals covered by a spouse’s employer-based health insurance policy to remain covered even after a job loss or a reduction in hours that results in termination of the coverage, or in the event of the employee’s retirement, death, or divorce from the spouse.

The continuation rights afforded by Illinois law apply equally to married spouses and civil union spouses.

Similar continuation rights are provided to spouses under a federal law known as the Consolidated Omnibus Budget Reconciliation Act, or “COBRA.” There are some differences between the Illinois continuation laws and the federal COBRA law in terms of premium costs, length of continuation coverage, and qualifying events.

Federal law does not recognize the Illinois Civil Union Law, and civil union spouses may not qualify for all of the same continuation rights as married spouses under COBRA.

See the Department’s [fact sheets](#) for more information about health insurance continuation rights provided under State and federal law.

B5) Are civil unions recognized for purposes of Medicare eligibility?

No. In general, due to federal law, an individual is eligible for Medicare Part A (hospital insurance) if he/she is 65 years old, a US citizen or permanent resident, and either he/she or his/her spouse has worked in Medicare-covered employment for at least 10 years.

As a function of federal law, Medicare does not recognize a civil union partner as a spouse. Therefore, if you do not have at least 10 years of Medicare-covered employment, you may not use the employment history of your civil union spouse to establish your eligibility for Medicare Part A.

B6) Can civil union spouses participate in Medical Savings Accounts (MSAs)?

An MSA is health plan option offered by some employers which combines a high-deductible health insurance policy with a tax-sheltered savings account. MSAs are established pursuant to federal law. An MSA allows “eligible individuals” to contribute pre-tax dollars to the savings account, which can be used to pay the insurance premium, deductible, and other qualifying medical costs.

Federal law does not recognize civil unions and, therefore, a civil union spouse would not qualify as an “eligible individual” under an MSA plan.

B7) Do the benefits provided to spouses under a Long Term Care policy apply to civil union spouses?

Yes. Long Term Care contracts often provide for a spouse survivorship benefit, spouse waiver of premium, spouse security benefit, and a spouse shared care benefit. Under the Civil Union Law, insurance policies issued in Illinois must provide identical benefits to spouses in a marriage and those in a civil union.

LIFE INSURANCE, ANNUITY, AND ASSET-BACKED INSURANCE PRODUCTS

C1) Can I purchase life insurance covering my civil union spouse?

Yes. In order to purchase insurance on someone else’s life (and designate yourself as the beneficiary), you must have an “insurable interest” in the life of the insured person at the time of application. In other words, you would suffer a financial or other tangible loss in the event of the insured person’s death. Insurance companies generally presume that close relatives, such as a spouse, child, parent, sibling, or grandchild, have an insurable interest in the life of the insured person. The Civil Union Law ensures that civil union spouses are treated the same as married spouses for purposes of life insurance coverages and benefits.

C2) Can I purchase a joint life insurance policy covering myself and my civil union spouse?

Yes. You can also purchase a rider to your existing policy to cover your civil union spouse. The Civil Union Law ensures that spouses in a civil union and marriage are treated equally for purposes of life insurance coverages and benefits.

C3) Can a civil union spouse be entitled to proceeds from a life insurance policy with no named beneficiary?

Yes. If a life insurance policy does not have a named beneficiary, the proceeds from the policy accrue to the insured person's estate. As a result of the Civil Union Law, civil union spouses are entitled to the same estate and inheritance rights under Illinois law as married spouses.

C4) Qualified annuity contracts provide certain tax advantages—for example, the right to a Qualified Preretirement Survivor Annuity (QPSA)—to surviving spouses upon the death of the insured. Do these tax advantages apply to civil union spouses?

No. While civil union spouses are afforded the same rights as married spouses under State law, QPSAs and similar tax-related advantages are derived from federal tax law. Illinois' Civil Union Law does not (and cannot) alter federal law.

The federal Defense of Marriage Act excludes civil unions and civil union partners from the meaning of the word "marriage" or "spouse" in all federal laws. Therefore, a civil union spouse does not qualify for the same tax advantages provided to a married spouse under federal law, including the tax benefits afforded to the surviving spouse of an owner of an annuity.

For more information regarding federal tax laws, please consult a tax advisor.

C5) Non-qualified annuity contracts allow a surviving spouse to become the contract owner upon the death of the insured. Does this right apply to civil union spouses?

No. This "spousal continuation" right is governed not by Illinois law, but by federal law. Because civil unions are not recognized by federal law, a civil union spouse is not considered a qualified beneficiary entitled to continuation rights under federal law.

PROPERTY & CASUALTY AND WORKERS COMPENSATION INSURANCE

D1) Does an insurer have to offer civil union couples the same joint policies and discounts it offers to married couples?

Insurers must offer the same policies and contracts to both civil union couples and married couples. If the insurer sets premium rates or provides premium discounts based on marital status, the insurer must treat married couples and civil union couples identically.

D2) How do I add my civil union spouse to my auto or homeowners' policy?

Your civil union spouse will be automatically covered under your policy. All auto and homeowners' insurance policies provide coverage for the "spouse" and dependent children of the named insured. The Civil Union Law ensures that the term "spouse" is defined to include parties to a civil union. Therefore, your auto and/or homeowners' policies will provide coverage to your civil union spouse as soon as the civil union takes effect.

If you entered into a civil union in another state prior to June 1, 2011, your civil union spouse will be covered effective June 1, 2011.

D3) Could a civil union spouse be covered under an auto or homeowners' policy after the named insured dies?

Yes. Auto and homeowners' policies allow the surviving spouse of the named insured to continue to pay premiums and keep the coverage in force. The Civil Union Law ensures that married and civil union spouses have the same coverage rights and benefits.

D4) Can the teenage child of civil union parents be added to the parents' auto insurance policy?

Yes. For teen drivers, the easiest (and usually least expensive) way to get insurance coverage is to be added to a parent(s)' policy. The Civil Union Law ensures that children of civil union spouses have the same coverage rights and benefits as children of married spouses. You can either add your child to your vehicle, or if she has her own vehicle (and your name is on the title), you can add her vehicle to your policy.

D5) Do civil union spouses qualify for survivor benefits under workers' compensation insurance?

Yes. Civil union spouses are entitled to the same benefits as married spouses under workers' compensation insurance.

PENSIONS

E1) Are civil union spouses entitled to survivor benefits under pension funds for firefighters and police officers?

Yes. The Civil Union Law ensures that civil union spouses are entitled to all of the same benefits as married spouses, including pension-related survivor benefits.

However, civil union spouses are also subject to the same obligations and restrictions on such benefits that married spouses are. The surviving spouse of a police officer, for example, is entitled to survivor benefits only if the couple was married or joined in a civil union prior to retirement. Likewise, the surviving spouse of a firefighter is eligible for benefits only if the marriage or civil union took place at least one year before the firefighter's death.

For purposes of this one-year requirement, a civil union entered into in another state prior to June 1, 2011, shall be counted from the effective date of the civil union.

Importantly, the Civil Union Law does not increase the amount or frequency of benefits payable by a public pension fund. Rather, the law clarifies to whom those benefits are payable.

For More Information

Call the Department of Insurance toll-free at (866) 445-5364 or visit us on our website at <http://insurance.illinois.gov>