Same-Gender Domestic Partner (SGDP)
Information for Fiscal Year 2011 (FY11)

1) State Senate Bill 09-088

- Bill passed during the 2009 legislative session as Senate Bill 09-088. Effective 7/1/2010.
- State Senate sponsorship: State Sen. Jennifer Veiga
- State House sponsorship: State Rep. Mark Ferrandino

2) What does this bill do?

- Adds a state employee's same-gender domestic partner to the list of dependents eligible for coverage under state employee group benefit plans.
- Defines "Domestic Partner" for purposes of qualifying as the dependent of a state employee.

3) Reasons for this change (these are several of the declarations from the bill)

- The state must remain a competitive employer in the market, recruiting and retaining the best employees for state government positions by offering an attractive and comprehensive compensation and benefits package.
- Employers who offer same-gender domestic benefits are at a competitive advantage over those employers who do not offer such benefits as they are able to offer a more comprehensive benefit package, as part of overall compensation, to recruit and retain skilled employees.
- It is important for the state to offer same-gender domestic partner benefits to its state employees in order to give the state a competitive edge in attracting and retaining qualified individuals for employment with the state.

4) In the bill, "Domestic Partner" is defined as:

Section 2 (6.5)

"Domestic Partner" means an adult, at least eighteen years of age:

a) Who is of the same gender as the employee;

b) With whom the employee has shared an exclusive, committed relationship for at least one year with the intent for the relationship to last indefinitely;

c) Who is not related to the employee by blood to a degree that would prohibit marriage pursuant to Section 14-2-110, C.R.S.; and

d) Who is not married to another person.

5) What Group Benefit Plans are available for Same-Gender Domestic Partners?

During Open Enrollment for FY11

- Medical plan
- Dental plan
- Health Care Flexible Spending Account (HC-FSA) plan, and
- Dependent Care Flexible Spending Account (DC-FSA) plan

Effective July 1, 2010

- Optional Life plan

- About the Health Care FSA: The Health Care FSA plan may provide tax favored health care reimbursement benefits to employees, spouses and dependents. Because a same-gender domestic partner can not be a "spouse" for purposes of federal tax laws, an employee's same-gender domestic partner may not participate in the employer's health care FSA plan unless the same-gender domestic partner qualifies as the employee's tax dependent under the IRS tax code.

- About the Dependent Care FSA: The Dependent Care FSA, or "day care FSA" may reimburse the employee for dependent care expenses for the employee's dependent children under the age of 13, a disabled dependent or a disabled spouse. Therefore, an employee will be able to use the day care FSA for a same-gender domestic partner's children only if the children qualify as the employee's tax dependents under the IRS tax code (and otherwise meet the age or disability criteria).

6) Criteria to add a Same-Gender Domestic Partner

In order to enroll a same-gender domestic partner in a state group benefit plan, an employee must meet the following two eligibility requirements:

1. The employee must be enrolled in the medical, dental, optional life, and/or FSA plan, and

2. The same-gender domestic partner must be an adult, at least eighteen (18) years of age, the same gender as the employee, has shared an exclusive, committed relationship with the employee for at least one year with the intent for the relationship to last indefinitely, is not related to the employee by blood to a degree that would prohibit marriage pursuant to Section 14-2-110, C.R.S., and is not married to another person.

7) Same-Gender Domestic Partnership Affidavit

In order for an employee to enroll a same-gender domestic partner, an "Affidavit of Same-Gender Domestic Partnership" form must be completed and submitted, along with supporting documentation to the agency Benefit Administrator. This Affidavit form will be available on the benefit web site.

8) Children of Same-Gender Domestic Partner

Eligible dependent children of a same-gender domestic partner are eligible for coverage under the state employee group benefit plans mentioned above.

9) Enrollment Periods

An employee may add a same-gender domestic partner to state employee group benefit coverage during one of the three enrollment opportunities:

- **Initial Hire** – Employee must enroll same-gender domestic partner in the online Benefits Administration System (BAS) and submit the appropriate paperwork (Affidavit) and supporting documentation within the proper timeframe.

- **Annual Open Enrollment Period** – Employee must enroll same-gender domestic partner in the BAS and submit the appropriate paperwork (Affidavit) and supporting documentation within the proper timeframe.

- **Qualifying Change in Status** – Employees who request same-gender domestic partner coverage mid-year due to experiencing an eligible qualifying change in status will have coverage effective the first day of the month following the eligible qualifying event date. Employee must enroll same-gender domestic partner in the BAS and submit the appropriate paperwork (Affidavit) and supporting documentation within the proper timeframe. Also, employee must provide documentation of the eligible qualifying change in status event within the proper timeframe.

10) Enrollment, Appropriate Paperwork, and Supporting Documentation

Employees seeking to cover a same-gender domestic partner must:

1. Enroll same-gender domestic partner in the BAS, and

2. Complete and submit an "Affidavit of Same-Gender Domestic Partnership" form, and

3. Provide supporting documentation that serves as proof of the relationship (for FY11 open enrolment, no later than June 30, 2010).

What Type of Supporting Documentation is needed as Proof of the Relationship?

- ➢ Must provide at least two forms of documentation from the list below, with the exception of a Certificate of Committed Partnership issued by the Clerk of the City and County of Denver or a Certificate of Domestic Partnership issued by the City Clerk of the City of Boulder, either certificate may be the sole form of documentation.

Option #1 *- Provide one of these certificates*

- ✓ **Certificate of Committed Partnership issued by the Clerk of the City and County of Denver** (no residency requirement)

  - An employee who registers with the City and County of Denver Registry for same-gender couples may submit the City and County of Denver Certificate of Committed Partnership in lieu of providing two items.

- ✓ **Certificate of Domestic Partnership issued by the City Clerk of the City of Boulder** (no residency requirement)

  - An employee who registers with the City of Boulder Registry for same-gender couples may submit the City of Boulder Certificate of Domestic Partnership in lieu of providing two items.

Option #2 *- Provide two of these documents*

- ✓ Bank statement indicating joint ownership of a bank account
- ✓ Ownership of a joint credit card
- ✓ Joint ownership or holding of investments
- ✓ A joint mortgage or lease
- ✓ Evidence of a joint obligation on a loan
- ✓ Mutually granted durable power of attorney
- ✓ Joint ownership of a residence
- ✓ Affidavit by a creditor able to testify to the partner's financial interdependence
- ✓ Evidence of a common household (e.g., utility bills, telephone bills)
- ✓ Joint ownership or lease of a motor vehicle
- ✓ Evidence of other joint responsibility, such as child care (e.g., school documents, guardianship)
- ✓ Mutually granted authority to make healthcare decisions (e.g., healthcare power of attorney)
- ✓ Authorized signatory on the partner's bank account, credit card or charge card
- ✓ Beneficiary designation under the other's life insurance policy, retirement benefits account, will or executor of each other's will
- ✓ Same-sex marriage certificate
- ✓ Other proof establishing economic interdependence

11) Declaration of Same-Gender Domestic Partnership

- The declaration of same-gender domestic partnership may have implication to the taxability of the state employee group benefit plans and/or to the taxability of the benefits provided.
- Before signing the "Affidavit of Same-Gender Domestic Partnership" form, the employee and same-gender domestic partner should seek tax advice concerning such matters.
- The State of Colorado can not provide advice in this regard.

12) Termination of Same-Gender Domestic Partner Benefit Plan Coverage

- **Annual Open Enrollment** – Employee may drop a same-gender domestic partner as a dependent from a state employee group benefit plan during the annual open enrollment period. It is the employee's responsibility to make an election change in the BAS within the proper timeframe.

- **Qualifying Status Change –** Same-gender domestic partner coverage may be terminated mid-year upon the employee or same-gender domestic partner experiencing an eligible qualifying change in status. It is the employee's responsibility to notify their agency Benefit Administrator, make an election change in the BAS and provide documentation of the eligible qualifying change in status event within the proper timeframe.

    - An example of an eligible qualifying change in status event is: Same-gender domestic partner becomes eligible for other group insurance coverage.

13) Termination of Same-Gender Domestic Partner Relationship

Following the termination of a same-gender domestic partner relationship, it is the employee's responsibility to notify their agency Benefit Administrator and make an election change in the BAS within the proper timeframe. Also, the employee must complete and submit a "Termination of Same-Gender Domestic Partnership Affidavit" form within the proper timeframe. This Affidavit form will be available on the benefit web site.

A minimum of one year (twelve months) must elapse before another same-gender domestic partner may be added to the employee's coverage.

Examples of situations that would cause the termination of the SGDP relationship:

- Employee decides that the same-gender domestic partner relationship is terminated.

- Employee or same-gender domestic partner gets married (legally married or common-law married) to another person.

14) COBRA Coverage

COBRA coverage will be offered to same-gender domestic partners and to the eligible children of same-gender domestic partners for loss of state employee group benefit coverage caused by a COBRA qualifying event.