



## The Vita Viewpoint Important Information for Decision Makers

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### **New California Legislation Governs Domestic Partner Coverage**

#### **Overview**

The State of California recently passed legislation that affects health and property insurance coverage for domestic partners in California.

AB 205 – This legislation was signed into law in 2003. It established general rights guaranteed to domestic partners under law, but it did not specifically address employer sponsored group health benefits for domestic partners.

AB 2208 – This legislation was signed into law in 2004. It requires health plans and insurance carriers to extend health care coverage to registered domestic partners equal to that of a spouse. The law is written such that all insurance carriers must include the coverage for domestic partners (just like any other benefit mandate). Equivalent coverage for Registered Domestic Partners may not be eliminated from any insurance contract, even at the employer's request.

#### **Definition of Domestic Partner**

California law defines a domestic partnership as being established when:

- Both persons file a declaration of Domestic Partnership with the Secretary of State.
- Both persons have a common residence. It is not necessary that the legal right to possess the residence be in both of their names.
- Neither person is married to someone else or is a member of another domestic partnership with someone else that has not been terminated, dissolved or annulled.
- The two persons are not related by blood in a way that would prevent them from being married to each other in California.
- Both persons are at least 18 years of age.
- Either of the following is true:
  - Both persons are of the same sex OR
  - The domestic partner is of the opposite sex and one or both persons are over age 62 and also meet the eligibility criteria for Medicare benefits.
- Both persons are capable of consenting to the domestic partnership.

#### **Effective Dates**

AB 205 – January 1, 2005

AB 2208 – This legislation has a split effective date. It is effective on January 1, 2005 for all insurance policies (*except group health insurance policies*) that are issued, amended, delivered or renewed on or after January 1, 2005. This includes life insurance, long term disability insurance, etc. The law is effective for group health insurance policies that are issued, amended, delivered or renewed on or after January 2, 2005.

### **Documentation Issues**

AB 2208 allows health plans and insurers to request verification of the declaration of a Domestic Partnership, but ONLY IF the health plan or insurer also requests equivalent proof (marriage license) for spouses.

### **General Requirements**

AB 2208 prohibits health plans and insurers from offering coverage for a registered domestic partner that is not equal to the coverage provided to the spouse of an employee or subscriber. Dependents of the domestic partner will be enrolled on the same basis as dependents of a subscriber's spouse.

AB 2208 does not apply to federal COBRA coverage or Cal COBRA extension coverage to former federal beneficiaries.

### **How does it affect Out of State Employees?**

The law applies to all insurance contracts (fully insured) and HMO contracts issued in California, as well as trust contracts issued to a California employer. It applies to out of state employees who are covered under a contract situated in California.

If a contract is issued out of another state, then that contract is not subject to this law, even if there are California residents covered under that contract.

***For questions or additional information, please contact Vita Benefits Group at (650) 968-8811.***