

AB 2208 Domestic Partners Q & A

What is AB 2208?

California State Assembly Bill 2208 requires health care service plans (such as Blue Cross of California) and health insurers (such as BC Life & Health Insurance Company) to provide coverage to the registered domestic partner of an employee or subscriber that on the same basis as the coverage it provides to the spouse of those persons. The law extends this requirement to all other forms of insurance regulated by the Department of Insurance (such as life, disability, and long term care).

What types of insurance plans are affected and what are the effective dates of AB 2208?

All health coverage and insurance, including medical plans and dental plans, issued, amended, delivered, or renewed on or after January 2, 2005. All other insurance, such as life, disability, and long term care, is similarly affected on or after January 1, 2005.

What is a “legally registered domestic partnership”?

A legally registered domestic partnership is established in California when both persons file a Declaration of Domestic Partnership with the Secretary of State, and at the time of filing meet all of the requirements listed in Family Code section 297 (see next question).

How do domestic partners register with the state of California?

Domestic Partners must file a Declaration of Domestic Partnership with the California Secretary of State and at the time of filing, must meet all of the following requirements:

- (1) Both persons have a common residence
- (2) 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 adjudged a nullity.
- (3) The two persons are not related by blood in a way that would prevent them from being married to each other in this state.
- (4) Both persons are at least 18 years of age.

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(5) Either of the following:

(A) Both persons are members of the same sex.

(B) One or both of the persons meet the eligibility criteria under Title II of the Social Security Act as defined in 42 U.S.C. Section 402(a) for old-age insurance benefits or Title XVI of the Social Security Act as defined in 42 U.S.C. Section 1381 for aged individuals. Notwithstanding any other provision of this section, persons of opposite sexes may not constitute a domestic partnership unless one or both of the persons are over the age of 62.

(6) Both persons are capable of consenting to the domestic partnership.

(c) "Have a common residence" means that both domestic partners share the same residence. It is not necessary that the legal right to possess the common residence be in both of their names. Two people have a common residence even if one or both have additional residences. Domestic partners do not cease to have a common residence if one leaves the common residence but intends to return.

Domestic Partners may obtain the form necessary to file a Declaration of Domestic Partnership, as well as get additional information, through the following California state government website:

<http://www.ss.ca.gov/dpregistry/index.htm>

Is a legally registered domestic partnership a same sex relationship or an opposite sex relationship?

CFC 297 states that same sex domestic partners age 18 and older can legally register as domestic partners. Persons of opposite sexes may not constitute a domestic partnership unless one or both of the persons are age 62 or older and eligible for Social Security. Please see the definition above under "How do domestic partners register with the state of California".

Does the requirement to provide health coverage to an employee's domestic partner extend to the children of the domestic partner?

Yes, the children of the domestic partner will be covered on the same basis as other eligible dependents. The law requires that coverage be provided to a legally registered domestic partner to the same extent and subject to the same terms and conditions as provided to a spouse. If the plan will cover the children of the employee's spouse, it must also cover the children of the employee's legally registered domestic partner.

Are domestic partners and the children of domestic partners eligible to continue their coverage through COBRA ?

We recommend that employer groups offer continuation coverage to all covered beneficiaries of the employer sponsored health plan.

Does Blue Cross require proof of domestic partnership?

The law permits the carrier to require the employee or subscriber to verify the status of the domestic partnership by providing to the carrier a copy of the valid Declaration of Domestic Partnership filed with the Secretary of State, as well as documentation that the domestic partnership has been terminated. But the law permits this only if the carrier also requires similar proof from married enrollees.

Large Group management has decided that we will not require documentation verifying the status of either a domestic partnership or a marriage. We do of course reserve the right to request such documentation for the purposes of fraud investigation and audit, and we also reserve the right to take appropriate action in the event we identify misrepresentation.

Are BlueCard plans affected by AB 2208?

Yes. The law is written in the state Health & Safety Code, which affects Blue Cross of California, as well as in the state Insurance Code, which affects BC Life & Health. BlueCard plans are affected by this law because they are written through BC Life & Health Insurance Company, a California insurer. As long as the plan is issued in California by a California insurer, it must comply. No exception is articulated in the law for a non-California resident. While non-California residents cannot register with the California state domestic partner registry, the law provides that the partners may be registered with another state or with a local agency of another state in which the partnership is created. Note that the partnership must still meet the requirements found in California state law (Family Code section 297), listed above.

Should the domestic partner be listed on the enrollment form if the declaration is pending?

No. Just like a spouse, we don't enroll a "pending spouse"; nor do we enroll a "pending domestic partner".

When does AB 2208 go into effect?

For health insurance, which includes medical and dental coverage, the law is effective for plans, issued, renewed, amended or delivered on or after January 2, 2005. For all other types of insurance (non-health insurance), the law is similarly effective on or after January 1, 2005.

What if an employer group is renewing on 7/1/05 and they want to add the new Domestic Partnership on 2/1/05?

This type of request would have to be approved by Underwriting and whatever form of Domestic Partnership would be agreed to – would depend on what was being requested by the client.

Can groups opt out of this, such as religious groups?

No. The law requires that BCC and BCL&H include domestic partner coverage in their insured products, and it makes no exception for contracts or policies issued to religious employers or for any other type of employer.

Can self-funded employer groups choose not to offer Domestic Partnership coverage?

The Self Insured Groups should notify BCC that they have declined to offer Domestic Partnership coverage.

Will Blue Cross be making any changes to documents in order to comply with AB 2208?

EOCs and certificates will automatically include revised eligibility text to include legally registered domestic partners as eligible dependents, as long as the plan covers spouses. This change will be made as plans renew beginning January 2, 2005. Please note that plans will also be revised if they are amended off-renewal beginning January 2, 2005.

If a plan currently includes coverage for an employee's domestic partner, the plan will be reviewed to determine whether any changes are required. Plans that currently have statutory AB 25 domestic partner coverage, or the "standard" domestic partner coverage already comply in terms of the definition of "domestic partner" and the unavailability of COBRA for the domestic partner and the partner's children. Statutory AB 25 eligibility

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includes only legally registered domestic partners. The "standard" version includes both registered and non-registered domestic partners of either same or opposite sex, any age 18 and older. But any plan language referring to documentation requirements may have to be revised to accommodate the provision in AB 2208 that proof of the domestic partnership can only be required if proof is also required of married employees.

Plans with the SF/LA version of domestic partner coverage will require no revision since (a) the plan will cover same and opposite sex partners of any age 18 and older, (b) there are no specific documentation requirements, and (c) COBRA is provided for the partner and the partner's children.