Providing Employee Benefits for Same-Sex Spouses in California

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A. Members of same-sex couples less likely to have health insurance than other Californians.

Many employers provide compensation in the form of fringe benefits, particularly health insurance coverage. In 2002, 65% of California businesses offered health insurance to its employees. Many employers provide such coverage to the spouse and children of employees, as well.

However, as of 2001, only 18% of workers in the western United States worked for an employer that covered same-sex domestic partners' health insurance.[1]

Therefore, large numbers of members of same-sex couples, and in some cases their children, will be ineligible for coverage through their partner's employer because they are not allowed to marry under California law and qualify as spouses for the purposes of employer-provided health insurance.

Two recent studies show that people in same-sex couples in the United States are, in fact, much more likely to be uninsured than are married people.

A study using the National Health Interview Study found that 21.1% of men and 18.0% of women in same-sex couples report being currently uninsured (Corliss, 2004). Even after controlling for age, race/ethnicity, family income, employment status, region, and year, men in same-sex couples are 1.84 times more likely to be uninsured than married men, and women in same-sex couples are 1.58 times more likely to be uninsured than married women.

A second study analyzing data from the Current Population Survey, a monthly survey conducted by the Census Bureau and Bureau of Labor Statistics, finds a similar pattern (Michael A. Ash and M. V. Lee Badgett, "Separate and Unequal: The Effect of Unequal Access to Employment-Based Health Insurance on Gay, Lesbian, and Bisexual

People," manuscript, 2004). After controlling for age and region of the country, 17.0% of men and 19.5% of women in same-sex couples were uninsured, compared with 10.7% of married people. The higher rates of being uninsured for same-sex couples remain after controlling for age, education, income, children, and full-time employment status.

The Current Population Survey also asks respondents about the source of their health insurance coverage, and the data clearly suggest that employers' standard practice of providing dependent coverage to spouses causes much of the difference in rates of being uninsured.

People in same-sex couples whose partner has employer-provided health insurance are at an obvious disadvantage to married couples. While 70.5% of spouses of employees with employer-provided coverage have coverage as a dependent, only 5.8% of people with same-sex partners who have employer coverage have coverage as a dependent.

Furthermore, 14.5% of people whose same-sex partner has employer coverage are uninsured, while only 4.0% of married people are uninsured when their spouse has employer-provided coverage.

Same-sex couples in California are likely to have very similar patterns as the country as a whole. The proportion of businesses offering health insurance to employees is similar in California and the rest of the United States, and the proportion offering benefits to domestic partners of employees in the western states is quite similar to the rest of the country.

Since in 2002 the average cost to California employers of providing family benefits was $3163, individuals in same-sex couples are losing a valuable benefit that they would receive if married.

For many families headed by same-sex couples, the actual costs of not having health insurance is much greater than the $3163 it would costs employers to provide for such coverage. Individual health insurance plans are generally much more expensive than the costs of adding a spouse to an employer-provided health insurance plan, and provide for less coverage with greater co-payments.

In addition, many families will not be able to afford to pay for such individual plans. If the uninsured partner in these families have a serious health problems, the economic consequences for the family, and potentially the State, could be in the tens of thousands of dollars.

B. ***Cost of providing such benefits not great for California businesses***

California businesses provide certain benefits to employees as part of a compensation package. These include health benefits, death benefits, retirement benefits, survivor benefits, and various leave programs. Some of these benefits cover an employee's spouse and the children of the employee's spouse, as well as the employee.

A. *California Law and Some Local Ordinances Already Require Employers to Provide the Domestic Partners of Employees with Some Benefits on the Same Basis as Spouses*

Under current California law, domestic partners are already treated the same as spouses in civil marriage for some employee benefits. For example, employees can use sick leave or take six weeks of leave with wage-replacement in order to care for an ill domestic partner, or child of a domestic partner, on the same basis that employees can receive such benefits to care for a spouse or the child of a spouse. In addition, employees can also receive unemployment benefits if they leave employment to accompany either a spouse or a domestic partner who is relocated to a place where it is impractical for the employee to commute. Thus, AB 2208 will not increase California businesses costs for providing these benefits to domestic partners of their employees.

In addition, SB two requires employers to provide domestic partner coverage for businesses with more than 200 employees, so AB 2209 will not result in any additional costs health insurance coverage for these businesses.

In addition, some California cities and counties have passed equal benefits ordinances, ordinances that require city or county contractors to offer all of the same benefits to domestic partners of their employees that they offer to spouses of their employees. Such municipalities include San Francisco, Los Angeles, Berkeley, Oakland and San Mateo County. For businesses that contract with these municipalities, there will not be any higher costs for providing employee benefits under AB 2208.

B. *Some California Businesses Already Voluntarily Provide Additional Benefits to Domestic Partners of Their Employees*

A number of California businesses already provide benefits, such as health, dental, and retirement benefits, to domestic partners of employees on the same basis as spouses even though they are not required to provided these benefits under current law.

As of 2001, 18% of workers in the western United States worked for an employer that covered same-sex domestic partners' health insurance.[2] (More recent figures would likely be higher.) One list of such businesses includes 3,896 large employers headquartered in California, including 33 Fortune 500 companies.[3] In addition, many companies headquartered outside of California provide health care benefits to domestic partners of employees, and will also have employees in California covered by these corporate policies.[4] Thus, for these businesses, AB 2208 will not result in increased costs for providing employee health care benefits.

Table III: Fortune 500 Companies Located in California that Currently Provide Health Care Benefits to Domestic Partners of Employees

RANK	COMPANY	CITY	YEAR
7	Chevron Texaco Corp.	San Ramon	2002
14	Hewlett-Packard Co.	Palo Alto	1997
20	McKesson Corp.	San Francisco	2000
24	Amerisource Bergen Corp	Orange	2000
46	Wells Fargo & Co.	San Francisco	1998
58	Intel Corp.	Santa Clara	1997
61	Walt Disney Co.	Burbank	1996
95	Cisco Systems	San Jose	1994
99	Northrop Grumman Co.	Los Angeles	2003
103	Wellpoint Health Network	Thousand Oaks	2000
130	Gap Inc.	San Francisco	1995
140	PG&E	San Francisco	1996
155	Sun-Micro Systems	Palo Alto	1994
170	PacifiCare Health Systems	Santa Ana	-
183	Edison International	Rosemead	1998
185	Health Net, Inc.	Woodland Hills	1997
190	Oracle Corp.	Redwood Shores	1993
209	Countrywide Financial Group	Calabasas	2003
246	Calpine Corp.	San Jose	1999
288	Science Applications International Corp.	San Jose	1999
291	Sempra Energy	San Diego	1996
292	Agilent Technologies	Palo Alto	1996
300	Apple Computers Inc.	Cupertino	1993
305	Amgen Inc.	Thousand Oaks	1999
327	Applied Material Inc.	Santa Clara	1999
337	Mattel Inc.	El Segundo	1998
364	The Charles Schwab Corp.	San Francisco	1994
371	Dole Food Inc.	Westlake Village	2001
389	Levi Strauss & Co.	San Francisco	1992
393	Providence Financial Corp.	San Francisco	1998
394	Clorex Co.	Oakland	1999
416	Hilton Hotels Corp.	Beverly Hills	2001
489	QualComm Inc.	San Diego	1998

Source for Table III: [Human Rights Campaign Web Page]

C. *AB 2208 Will Have A Minimal Impact on the Costs of Some Employee Benefits, such as Retirement, Death, and Survivor Benefits*

Some employers provide their employees with death, survivor, and retirement benefits. For those employers who do not already provide equal benefits to domestic partners, either voluntarily or pursuant to local law, AB 2208 will increase the eligibility for death and survivor benefits, primarily by making domestic partners who survive an employee or retiree eligible for such benefits on the same basis as a surviving spouse.

AB 2208 will have a minimal impact on these benefits for several reasons. First, very few employees will become eligible for pre-retirement death benefits under AB 205. For example, in a study of AB 2208's impact on State employee benefits, we determined that at most one additional state employee each year would become eligible for such benefits.[5] Thus, it likely that almost all of California's businesses, which employ a fraction of the employees employed by the State, will not pay out additional death benefits because of AB 2208. AB 22085 will also have very little impact on the pay out of post-retirement survivor benefits because very few additional persons will become eligible for such benefits under AB 2208 and, in most circumstances, employees can already designate their domestic partners to be the beneficiaries of such benefits.[6]

D. *AB 2208 will have a Minimal Impact on the Cost to California Businesses of Providing Health Care Benefits*

The concern most frequently raised when businesses consider providing domestic partners benefits is the cost of providing additional health care benefits. However, both predictive models and empirical data have consistently demonstrated that few new partners are likely to sign up for health care benefits.

In a 2001 Urban Institute study, researchers predicted that only two tenths of one percent of a company's employees (0.2% of the workforce) would request benefits for same-sex domestic partners. The study concluded that "the costs associated with adding domestic partner benefits are most likely to be quite small."[7]

Empirical studies of businesses that offer domestic partner benefits have also demonstrated that partner coverage does not significantly increase employers' compensation costs. The typical "take-up rate," or percentage of employees who sign up a partner, is low. A survey of public employers found an average take-up rate of 2.1%, while a survey of private employers found most reporting a 1% rate.[8]

The best predictor of the take-up rate for California businesses is the actual experience of the State of California, which has provided health benefits to domestic partners of state employees on the state terms as spouse of state employees for the past three years. During that time period, less than one-half of one percent (0.5%) of State employees under CalPERS has enrolled domestic partners for health benefits.

Using the take-up rate for state employees and the current average monthly costs for employers for providing health insurance for family members, we can project the costs that AB 2208 will impose on some hypothetical California businesses that do not already provide equal benefits to domestic partners. Most California businesses will have no new partners signed up, since they are so small that the predicted number of enrollees is less than one, as shown in Table IV. In other words, very few small businesses will have any employees who want to cover a partner. (And not all small businesses offer health benefits to any employee, further reducing the costs of AB 205.)

Medium-sized businesses with 100-499 employees will on average have one or two new people to cover. Using the average employer contribution to family coverage for California employers in 2002, we estimate that those employees will cost medium-size employers from $3,163 to $6,326 per year. Larger employers will see the biggest cost, not surprisingly. An employer with 1,000 employees will add 5 new partners.

TABLE IV: PROJECTED INCREASED COSTS FOR HEALTH BENEFITS FOR DOMESTIC PARTNERS FOR CALIFORNIA BUSINESSES

Number of Employees In Business	Percentage of California Businesses With This # of Employees	Annual Cost to Employer of One Employee Switching From Single to Family Coverage	# of Employees Projected Taking Up Family Coverage As A Result of AB 205	Total Projected Cost to Employer Under AB 205
0-99	98%	$3,163	0	$0
100-499	1.8%	$3,163	1-2	$3,163-6,326
500+	.2%	$3,163	5 (1,000 employees)	$15,815 (5 employees)

Sources for Table IV: The Kaiser Family Foundation and Health Research and Educational Trust, California Employer Health Benefits Survey 2002, February 2003, Chart 11. California Size of Business Report, 2001, Table 1, Number of Businesses, Number of Employees, and Third Quarter Payroll by Size of Business, State of California, Third Quarter, 2001.

In conclusion, several predictive methods all yield the same conclusion. Few California businesses will be affected at all by AB 2208, and those that are affected will see a very small impact on compensation costs.

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[1] THE KAISER FAMILY FOUNDATION AND HEALTH RESEARCH AND EDUCATIONAL TRUST, *Survey of Employer-Sponsored Health Benefits: 2001*(Henry J. Kaiser Family Foundation), at 57 Exhibit 4.12. *at* http://www.kff.org/content/2001/3138/EHB2001_fullrpt.pdf (last accessed Aug. 25, 2003).

[2] THE KAISER FAMILY FOUNDATION AND HEALTH RESEARCH AND EDUCATIONAL TRUST, *Survey of Employer-Sponsored Health Benefits: 2001*(Henry J. Kaiser Family Foundation), at 57 Exhibit 4.12. *at* http://www.kff.org/content/2001/3138/EHB2001_fullrpt.pdf (last accessed Aug. 25, 2003).

[3] *Fortune 500 Companies That Offer Domestic Partner Health Benefits*, Human Rights Campaign, *at* http://www.hrc.org/worknet/dp/index.asp (accessed Apr. 27, 2003).

[4] *Id.*

[5] M.V. Lee Badgett and R.B. Sears, *Equal Rights, Fiscal Responsibility: The Impact of AB 205 on California's Budget (Policy Study)* (Charles R. Williams Project on Sexual Orientation Law and the Inst. For Gay and Lesbian Strategic Stud.), May 2003, at 14-15 *available at* http://www1.law.ucla.edu/~williamsproj/wppolicystudy1.pdf (last modified Aug. 25, 2003).

[6] *Id*. at 15-17.

[7] Gary J. Gates, *Domestic Partner Benefits Won't Break the Bank* (The Urban Institute), April 2001.

[8] M.V. Lee Badgett, *Calculating Costs with Credibility: Health Care Benefits for Domestic Partners*, 5 ANGLES l, 1-8 (Institute for Gay and Lesbian Strategic Studies), 2000.