

## Michigan Court of Appeals Approves Health Benefits for Unrelated Co-Residents of State Employees

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January 16, 2013

On January 8, 2013, the Michigan Court of Appeals, in a two-to-one decision, held that the Michigan Civil Service Commission could extend eligibility in the State Health Plan to “other eligible adult individuals” (OEAI) who are co-residents, but not relatives, of state classified civil servants without running afoul of either the “Marriage Amendment” to the Michigan Constitution or its Equal Protection Clause.

At issue was a decision by the Civil Service Commission to establish an OEAI health plan policy, which permits state classified civil servants who do “not have a spouse eligible for enrollment in the State Health Plan” to “enroll one [OEAI]” so long as the OEAI:

- (1) is at least 18 years of age;
- (2) is not a member of the employee’s immediate family (including spouse, children, parents, grandparents or foster parents, grandchildren, parents-in-law, brothers, sisters, aunts, uncles, or cousins); and
- (3) has shared the “same regular and permanent residence for at least 12 continuous months” with the employee “other than as a tenant, boarder, renter or employee.”

Michigan’s Attorney General sued the Civil Service Commission, alleging that the OEAI benefits policy violates Michigan’s constitution under the theory that it discriminates against married civil servants based on their “marital status” by excluding married employees from sharing their benefits with persons other than their spouses, and against an employee’s other family members based on their “familial status” by excluding employees from sharing benefits with blood relatives. The Attorney General also suggested that the OEAI policy, which does not expressly apply to same-sex domestic partners, was nonetheless an attempt to circumvent the “Marriage Amendment.” The Court of Appeals disagreed with the Attorney General and affirmed the trial court’s dismissal of the case.

Noting that the OEAI benefits policy is “completely gender-neutral” and “does not allow married employees to share their benefits with anyone other than spouses” or “with close blood relations,” the Court of Appeals concluded that the policy does not violate Michigan’s Marriage Amendment, which prohibits the recognition of any “agreement” other than “the union of one man and one woman in marriage” as “a marriage or similar union for any purpose.” According to the Court, the Marriage Amendment “does not in any way prohibit incidentally benefiting such agreements, particularly where it is clear that an employee here could share benefits with a wide variety of other people.” It held that the OEAI policy “does not depend on the employee being in a close relationship of any particular kind with the OEAI beyond a common residence” and, thus, does not violate the Marriage Amendment.

Likewise rejecting the Attorney General’s Equal Protection claim, the Court explained that neither “marital status” nor “familial status” classifications, with which the Attorney General took issue, deserve heightened scrutiny under the Equal Protection Clause. Consequently, the policy withstands judicial scrutiny because it is rationally related to advance a legitimate state purpose. Specifically, the Court concluded that, under this “highly deferential standard of review,” the OEAI policy is lawful because “it is not the place of courts to second-guess the wisdom, need, or appropriateness of the state action,” particularly where the “[Civil Service Commission] had to ‘draw the line’ at some point.” Here, the Court

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explained, the Civil Service Commission crafted the eligibility criteria for OEAI benefits through negotiations with the unions, thereby “serv[ing] the negotiated, bargained-for needs of the individuals affected.”

Finally, the Court of Appeals re-affirmed that the Civil Service Commission, which is a constitutionally-created entity, retains “plenary and exclusive authority” to set compensation and conditions of employment for classified civil servants. This, according to the Court, includes the authority to determine eligibility rules for OEAI health benefits “because they are provided in exchange for services rendered by public employees.” As a result, the Court rejected the Attorney General’s assertion that the Michigan Civil Rights Act, which prohibits discrimination based on “marital status,” trumps the Civil Service Commission’s constitutional authority.

### **What this means for municipal employers**

Under this decision municipalities may, without violating the Marriage Amendment or the Equal Protection Clause, have more latitude to offer health benefits to non-employees who are not the spouse or dependents of municipal employees. However, because municipalities do not possess constitutional authority like that of the Civil Service Commission, any “line drawing” performed by a municipality to determine who is eligible for extended health benefits must be done carefully and in consultation with experienced employment counsel to ensure compliance with applicable civil rights laws.

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