

definition, of an employee's domestic partner.

*Son or daughter* means—

(1) A biological, adopted, step, or foster son or daughter of the employee;

(2) A person who is a legal ward or was a legal ward of the employee when that individual was a minor or required a legal guardian;

(3) A person for whom the employee stands in loco parentis or stood in loco parentis when that individual was a minor or required someone to stand in loco parentis; or

(4) A son or daughter, as described in paragraphs (1) through (3) of this definition, of an employee's domestic partner.

4. In § 630.902, revise the definition of *family member* and add definitions of *committed relationship*, *domestic partner*, *parent*, and *son or daughter* to read as follows:

#### § 630.902 Definitions.

\* \* \* \* \*

*Committed relationship* means that the employee, and the domestic partner of the employee, are each other's sole domestic partner (and are not married to or domestic partners with anyone else); and share responsibility for a significant measure of each other's common welfare and financial obligations. This includes, but is not limited to, any relationship between two individuals of the same or opposite sex that is granted legal recognition by a state or by the District of Columbia as a marriage or analogous relationship (including, but not limited to, a civil union).

*Domestic partner* means an adult in a committed relationship with another adult, including both same sex and opposite sex relationships.

\* \* \* \* \*

*Family member* means an individual with any of the following relationships to the employee:

(1) Spouse, and parents thereof;

(2) Sons and daughters, and spouses thereof;

(3) Parents, and spouses thereof;

(4) Brothers and sisters, and spouses thereof;

(5) Grandparents and grandchildren, and spouses thereof;

(6) Domestic partner, including domestic partners of any individual in (2)–(5) above; and

(7) Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

\* \* \* \* \*

*Parent* means—

(1) A biological, adoptive, step, or foster parent of the employee;

(2) A person who is the legal guardian of the employee or was the legal guardian of the employee when the employee was a minor or required a legal guardian; or

(3) A person who stands in loco parentis to the employee or stood in loco parentis to the employee when the employee was a minor or required someone to stand in loco parentis.

(4) A parent, as described in paragraphs (1) through (3) of this definition, of an employee's domestic partner.

\* \* \* \* \*

*Son or daughter* means—

(1) A biological, adopted, step, or foster son or daughter of the employee;

(2) A person who is a legal ward or was a legal ward of the employee when that individual was a minor or required a legal guardian;

(3) A person for whom the employee stands in loco parentis or stood in loco parentis when that individual was a minor or required someone to stand in loco parentis; or

(4) A son or daughter, as described in paragraphs (1) through (3) of this definition, of an employee's domestic partner.

5. In § 630.1002, add the definitions of *committed relationship*, *domestic partner*, *parent*, and *son or daughter* to read as follows:

#### § 630.1002 Definitions.

\* \* \* \* \*

*Committed relationship* has the meaning given that term in subpart I of this part.

*Domestic partner* has the meaning given that term in subpart I of this part.

\* \* \* \* \*

\* \* \* \* \*

\* \* \* \* \*

*Parent* has the meaning given that term in subpart I of this part.

\* \* \* \* \*

*Son or daughter* has the meaning given that term in subpart I of this part.

6. In § 630.1102, add the definitions of *committed relationship*, *domestic partner*, *parent*, and *son or daughter* to read as follows:

#### § 630.1102 Definitions.

\* \* \* \* \*

*Committed relationship* has the meaning given that term in subpart I of this part.

\* \* \* \* \*

*Domestic partner* has the meaning given that term in subpart I of this part.

\* \* \* \* \*

*Parent* has the meaning given that term in subpart I of this part.

*Son or daughter* has the meaning given that term in subpart I of this part.

\* \* \* \* \*

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## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 875

RIN 3206–AL92

### Federal Long Term Care Insurance Program: Eligibility Changes

**AGENCY:** U.S. Office of Personnel Management.

**ACTION:** Proposed regulation.

**SUMMARY:** The U.S. Office of Personnel Management (OPM) is issuing a proposed regulation to expand eligibility to apply for coverage under the Federal Long Term Care Insurance Program (FLTCIP). Under the proposed regulation, the definition of “qualified relative” is expanded to cover the same-sex domestic partners of eligible Federal and U.S. Postal Service employees and annuitants. The proposed regulation will help agencies address the family needs of an increasingly diverse workforce, and will enhance the Federal Government's ability to compete with the private sector for talent.

**DATES:** OPM must receive comments on or before November 13, 2009.

**ADDRESSES:** You may submit comments, identified by docket number and/or RIN number by any of the following methods:

• *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

• *Mail:* John Cutler, Senior Policy Analyst, Insurance Policy Group, Strategic Human Resources Policy, Office of Personnel Management, 1900 E Street, NW., Room 3415, Washington, DC 20415; or deliver to OPM, Room 3415, 1900 E Street, NW.; or FAX to (202) 606–0633.

**FOR FURTHER INFORMATION CONTACT:** John Cutler, at [john.cutler@opm.gov](mailto:john.cutler@opm.gov) or (202) 606–0735.

**SUPPLEMENTARY INFORMATION:** The President's Memorandum of June 17, 2009, on Federal Benefits and Non-Discrimination requests that the Office of Personnel Management (OPM) extend certain benefits that can be provided to same-sex domestic partners of Federal employees consistent with Federal law. In response, OPM is proposing a regulatory change to expand eligibility to apply for coverage under the Federal Long Term Care Insurance Program

(FLTCIP). The purpose of the change is to enhance the ability of Federal agencies to provide for the needs of an increasingly diverse workforce, and to assist the Federal Government in competing with the private sector for talent. To promote both of these policies, OPM proposes to expand the term "qualified relative" to include additional individuals who are same-sex domestic partners and whose close association with the employee or annuitant constitutes a family relationship.

Currently, a "qualified relative" is defined to include:

- The spouse of an employee, annuitant, member of the uniformed services or retired member of the uniformed services;
- A parent, stepparent or parent in-law of an employee or member of the uniformed services;
- An adult child (natural, step or adopted) of an employee, annuitant, member of the uniformed services, or retired member of the uniformed services if such a child is at least age 18.

The proposed regulatory change will expand the definition of "qualified relative" under 5 U.S.C. 9001(5)(D) to provide eligibility to apply for FLTCIP coverage to the same-sex domestic partners of Federal and U.S. Postal Service employees and annuitants. Opposite-sex domestic partners are not included in the proposed regulation because they may obtain eligibility for federal long term care insurance through marriage, an option not currently available to same-sex domestic partners.

In order to demonstrate eligibility to apply for coverage under the FLTCIP, individuals will be required to provide documentation to establish they meet the criteria for domestic partners.

OPM's proposed regulations will not only modernize FLTCIP and provide for workforce equity, but also will make the Federal Government more competitive in recruiting and retaining highly qualified employees. A majority of Fortune 500 companies and thousands of smaller companies already provide the same-sex domestic partners of their employees with access to a variety of insurance benefits that are available to other family members. Such benefits also are provided by public-sector entities such as state and local governments, and by colleges and universities. The extension of such benefits to Federal employees would help the government compete for talent.

#### Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities

because the regulation only adds an additional group to the list of groups eligible to apply for coverage under the FLTCIP. The FLTCIP is a voluntary, self-pay benefits program with no Government contribution.

#### Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

#### Federalism

We have examined this rule in accordance with Executive Order 13132, Federalism, and have determined that this rule will not have any negative impact on the rights, roles and responsibilities of State, local or tribal governments.

#### List of Subjects in 5 CFR Part 875

Administrative practices and procedures, Employee benefit plans, Government contracts, Government employees, health insurance, military personnel, organization and functions, retirement.

U.S. Office of Personnel Management.

**John Berry,**  
*Director.*

Accordingly, OPM proposes to amend 5 CFR part 875, as follows:

#### PART 875—FEDERAL LONG TERM CARE INSURANCE PROGRAM

1. The authority citation for 5 CFR part 875 continues to read as follows:

**Authority:** Authority: 5 U.S.C. 9008.

2. Add a new § 875.213 as follows:

##### **§ 875.213 May I apply as a qualified relative if I am the domestic partner of an employee or annuitant?**

(a) You may apply for coverage as a qualified relative if you are a domestic partner, as described in paragraph (b) of this section. As prescribed by OPM, you will be required to provide documentation to demonstrate that you meet these requirements.

(b) For purposes of this part, the term "domestic partner" is a person in a domestic partnership with an employee or annuitant of the same sex. The term "domestic partnership" is defined as a committed relationship between two adults, of the same sex, in which the partners—

(1) Are each other's sole domestic partner and intend to remain so indefinitely;

(2) Have a common residence, and intend to continue the arrangement indefinitely;

(3) Are at least 18 years of age and mentally competent to consent to contract;

(4) Share responsibility for a significant measure of each other's financial obligations;

(5) Are not married to anyone else;

(6) Are not a domestic partner of anyone else;

(7) Are not related in a way that, if they were of opposite sex, would prohibit legal marriage in the State in which they reside;

(8) Will certify they understand that willful falsification of the documentation described in paragraph (a) of this section may lead to disciplinary action and the recovery of the cost of benefits received related to such falsification and may constitute a criminal violation under 18 U.S.C. 1001.

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#### DEPARTMENT OF HOMELAND SECURITY

#### 8 CFR Parts 103, 214 and 274a

[CIS No. 2758-08; DHS Docket No. USCIS-2008-0035]

RIN 1615-AB75

#### **E-2 Nonimmigrant Status for Aliens in the Commonwealth of the Northern Mariana Islands With Long-Term Investor Status**

**AGENCY:** U.S. Citizenship and Immigration Services, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Department of Homeland Security (DHS) is proposing to amend its regulations governing E-2 nonimmigrant treaty investors to establish procedures for classifying long-term investors in the Commonwealth of the Northern Mariana Islands (CNMI) as E-2 nonimmigrants. This proposed rule implements the CNMI nonimmigrant investor visa provisions of the Consolidated Natural Resources Act of 2008 extending the immigration laws of the United States to the CNMI.

**DATES:** Written comments must be submitted on or before October 14, 2009.

**ADDRESSES:** You may submit comments, identified by DHS Docket No. USCIS-2008-0035 by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *E-mail:* You may submit comments directly to USCIS by e-mail at