

FOR IMMEDIATE RELEASE

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HHS announces first guidance implementing Supreme Court's decision on the Defense of Marriage Act

Today, the Department of Health and Human Services (HHS) issued a memo clarifying that all beneficiaries in private Medicare plans have access to equal coverage when it comes to care in a nursing home where their spouse lives. This is the first guidance issued by HHS in response to the recent Supreme Court ruling, which held section 3 of the Defense of Marriage Act unconstitutional.

“ HHS is working swiftly to implement the Supreme Court’ s decision and maximize federal recognition of same-sex spouses in HHS programs,” said HHS Secretary Kathleen Sebelius. “ Today’ s announcement is the first of many steps that we will be taking over the coming months to clarify the effects of the Supreme Court’ s decision and to ensure that gay and lesbian married couples are treated equally under the law.”

“ Today, Medicare is ensuring that all beneficiaries will have equal access to coverage in a nursing home where their spouse lives, regardless of their sexual orientation,” said Centers for Medicare & Medicaid Services (CMS) Administrator Marilyn Tavenner. “ Prior to this, a beneficiary in a same-sex marriage enrolled in a Medicare Advantage plan did not have equal access to such coverage and, as a result, could have faced time away from his or her spouse or higher costs because of the way that marriage was defined for this purpose.”

Under current law, Medicare beneficiaries enrolled in a Medicare Advantage plan are entitled to care in, among certain other skilled nursing facilities (SNFs), the SNF where their spouse resides (assuming that they have met the conditions for SNF coverage in the first place, and the SNF has agreed to the payment amounts and other terms that apply to a plan network SNF). Seniors with Medicare Advantage previously may have faced the

choice of receiving coverage in a nursing home away from their same-sex spouse, or disenrolling from the Medicare Advantage plan which would have meant paying more out-of-pocket for care in the same nursing home as their same-sex spouse.

Today's guidance clarifies that this guarantee of coverage applies equally to all married couples. The guidance specifically clarifies that this guarantee of coverage applies equally to couples who are in a legally recognized same-sex marriage, regardless of where they live.

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Note: All HHS press releases, fact sheets and other news materials are available at <http://www.hhs.gov/news>.