

CATEGORICAL FACTORS**LEGALLY RECOGNIZED SAME SEX MARRIAGES**

Policy: Individuals who declare that they have been legally married in a jurisdiction that recognizes and performs same-sex unions must, regardless of gender, receive full faith, credit and comity as all other legally married persons when a district makes any Medicaid eligibility and case decision in New York State.

References: GIS 08 MA/023

Interpretation: Individuals of the same sex who have been married in a jurisdiction that recognizes and performs same-sex unions must receive equal treatment and recognition of such marriage. Equal treatment means that terms such as “husband”, “wife” and “spouse” are construed in a manner that encompasses legal same-sex marriages. Factors including but not limited to the following must be evaluated in the same manner for all legally performed marriages:

- Required signatures on applications;
- Household composition and size;
- Budgeting methodology;
- Determination of Legally Responsible Relatives;
- Spousal and Child Support issues
- Health insurance premium payments;
- Chronic/long term care budgeting issues, including transfers of resources for SSI-related A/Rs;
- Income from trusts;
- Homestead and resource exemptions for SSI-related A/Rs
- Burial funds;
- Estates; and
- Liens and recoveries.

Disposition: Individuals who have been legally married in a same-sex union will have their eligibility for Medicaid and related programs determined in the same manner as individuals who are legally married that are not of the same sex.

Documentation: Documentation of a legally recognized same-sex marriage is only necessary in the same limited circumstances as documentation of any other marriage (for example, when an individual seeks spousal budgeting for long term care).