



Date: December 31, 2002

To: Directors
Employment and Income
Assistance

From: Pam Goulet and John Petersen
Directors, Field Services
Employment and Income
Assistance
305 – 114 Garry Street
Winnipeg MB R3C 4V7

Telephone: 945-0790 and 945-6374

Subject: **Same-Sex Common-law Relationships**

Legislative Amendment

Subsection 5(5) of *The Employment and Income Assistance Act* has been amended as follows:

“Where two persons who are not legally married to each other are living together under circumstances that indicate to the director or a municipality that they are cohabiting in a conjugal relationship, they shall, for the purposes of this Act and the regulations, be treated in the same manner as two persons who are legally married, and any application by either or both of them for income assistance, general assistance or municipal assistance shall be dealt with in every respect in that manner.”

The amendment takes effect January 1, 2003. The result is that same-sex common-law partners are to be treated in the same manner as persons who are legally married to each other, or are opposite-sex common-law partners, for the purposes of establishing and maintaining eligibility for Employment and Income Assistance (EIA) benefits.

Regulation Amendments

Subsection 1(1) of *The Employment and Income Assistance Regulation* has been amended, effective January 1, 2003, to include the following definitions:

“Common-law partner” means a member of an applicant’s or recipient’s household who lives with the applicant or recipient under circumstances that indicate to the director that they are cohabiting in a conjugal relationship;”

“Spouse” means a member of an applicant’s or recipient’s household who is married to the applicant or recipient;”

As well, the Regulation has been amended so that the term “spouse” has been replaced with the term “spouse or common-law partner” and the term “marital status” has been replaced with the term “marital or common-law relationship status”. The wording of the sections related to child care, housekeeper or attendant services [subsection 7(1)] and to rates in licensed or approved residential care facilities [paragraph 4(b)(ix)(A) of the Schedule] have also been updated to extend the current provisions to include same-sex couples.

EIA Forms

Adding the term “or common-law partner” to the on-line application will require reprogramming, which will be completed as soon as possible. At this time, there will be no change to the on-line application form in the wording designating marital status, as the change will be accommodated by changing the SAMIN codes.

All forms will be reviewed for necessary changes as the time comes to order new supplies.

The following actions are required on forms where the signature is witnessed by staff, until such time as the forms are updated: 1) staff must explain the need for both partners to sign the form and 2) the term “or common-law partner” must be added immediately after “spouse”. Both the EIA staff person witnessing the signature and the participants must initial each area where any changes are made to the documents. (Please ensure staff are aware that the term “common-law partner” must be hyphenated.)

Pre-Intake Orientations

To help ensure that applicants are aware of their responsibility to report common-law relationships, whether same or opposite-sex, the Pre-Intake Orientation (PIO) session presentation has been updated. The new PIO material will advise applicants that all persons (opposite or same-sex) residing in a common-law relationship will be “treated in the same manner as two persons who are legally married and any application by either or both of them ... shall be dealt with in every respect in that manner”.

The EIA Administrative Manual

Relevant sections of the EIA Administrative Manual are being updated to reflect the new terminology: “common-law partners” and “common-law relationship”.

The criteria for determining the existence of a common-law relationship, either at intake or during enrollment, remain in effect. Section 8.1.4 of the Administrative Manual describes the conditions that must be satisfied prior to the Department determining that EIA participants are living in a common-law relationship.

Form to assist participants to define their relationship

In situations where participants indicate that they are residing with another person, staff may find the attached form useful in gathering information from participants about the nature of their living arrangement. The form can be handed to the participants and the participants asked to indicate the description that fits their relationship. Should it be determined that the participants are residing in a common-law relationship, they are to be advised that they will be required to complete a joint application

Participants who previously declared same-sex common-law relationships

Participants who previously declared a same-sex common-law relationship, but elected to be enrolled as single participants, are to be contacted and advised that they will now be required to complete a joint application, unless their circumstances have changed.

Original signed by Pam Goulet
Director, Field Services, Winnipeg

Original signed by John Petersen
Director, Field Services,
Rural and Northern