



Public Employers Cannot Provide Benefits to Employees' Same-Sex Partners

Employment, Labor & Benefits Practice Group

Foster Swift Employment, Labor & Benefits Quarterly

September 2008

PRACTICE AREAS

Employee Benefits

Health Care

On May 7, 2008, the Michigan Supreme Court held that the marriage amendment prohibits public employers from providing health insurance benefits to their employees' qualified same-sex domestic partners. The marriage amendment provides: "To secure and preserve the benefits of marriage for our society and for future generations of children, the union of one man and one woman in marriage shall be the only agreement recognized as a marriage or similar union for any purpose."

When the marriage amendment went into effect on November 2, 2004, several public employers had policies or agreements in effect that extended health insurance benefits to their employees' qualified same sex partners. The Attorney General opined that the Michigan Constitution prohibits state and local governmental entities from conferring benefits on their employees based on a "domestic partnership" agreement.

Plaintiffs filed this action seeking a declaration that the marriage amendment does not bar public employers from providing health benefits to their employees' same-sex partners. The Court held that the recognition of a same sex partnership for the purpose of receiving health insurance benefits is prohibited by the language of the marriage amendment.