



Dear members of the University of Wisconsin-Madison LGBTQ community,

Attached is a quick “Explainer” addressing the current state of UW health care coverage and recordkeeping focused on issues of special interest to our community. Steph Tai, co-chair of the UW-Madison Committee for GLBTQ People in the University (GLBTQ Committee), drafted this Explainer, after consultation and review by the UW-Madison Office of Human Resources (OHR), to respond to pressing questions from and expressed needs of our community members. As members of the GLBTQ Committee, we hope that this Explainer helps our community make sense of the rather confusing technical documents we’ve all been receiving.

We also want to emphasize that we in the UW GLBTQ community can do more than merely understand/accept these changes. That is, based on our committee’s evaluation of the current situation, we see a number of areas where the committee can take additional steps to advocate for our community and where overall community engagement might be even more helpful.

Overall, we approve of the changes that the Employee Trust Funds agency (ETF) has made to the HIV-antiviral co-payment policy. Bringing the co-payments back down to \$50/month will make a great difference in helping our community members be able to afford much-needed healthcare.

But the current state of domestic partner healthcare coverage, transgender healthcare coverage, and gender identifiers in UW and ETF records, outlined in our Explainer, concern us. We believe that a combination of information gathering, advocacy, and outreach will be helpful to our community in achieving equitable and inclusive healthcare and recordkeeping.

Thus, we commit to hosting a community forum this spring to (1) document impacts of current policy on members of our community via testimony and statements of our community members, (2) collectively discuss future steps that we as an overall community as well as individual community members can take to advocate for equitable



and inclusive healthcare and recordkeeping, and (3) answer any remaining questions you might have in the best of the committee's collective knowledge. Please watch for a followup announcement in the next few months. In the meantime, we as a committee will continue to monitor ongoing developments and advocate on behalf of all of us.

Sincerely,

Kelly Krein and Steph Tai, co-chairs, Committee for GLBTQ People in the University

Co-signed by members of the Committee for GLBTQ People in the University:  
Jay Botsford, Stephanie Budge, Katherine Charek Briggs (ex officio), Alex Dressler,  
Finn Enke (ex officio), Ellen Morin, Nick Pjevach, Petra Walech-Roth, Nathan  
Wlodarchak

# **A Short-ish Explainer on the 2017-2018 Wisconsin Health Care Plans, and Also Some Recordkeeping Stuff**

*from the Committee for GLBTQ People in the University*

## **Intro**

Many folks have been asking questions about current health care coverage and recordkeeping as it pertains to issues of unique importance to the UW GLBTQ community. So we, as the UW-Madison Committee for GLBTQ People in the University (GLBTQ Committee), have put together a quick explainer.<sup>1</sup> Basically this explainer covers three issues related to insurance, and one related to UW System recordkeeping as related to gender:

- The Wisconsin Legislature's changes to domestic partnership coverage and subsequent Employee Trust Funds (ETF) agency implementation,
- The existing state of transgender health care coverage (resulting from a number of influences),
- ETF changes to HIV antiviral drug co-payments, and
- Developments in the UW employee recordkeeping system for gender categories.

This guide focuses only on explaining the current state of affairs. The GLBTQ committee proposes collaborative information gathering, advocacy, and outreach, in partnership with members and allies of the UW-Madison GLBTQ community, in an additional cover letter.

## **Domestic partnership coverage changes**

### ***Short version:***

Domestic partners will not be covered under health plans starting January 1, 2018.

### ***Long version:***

On September 21, 2017, the Wisconsin state legislature passed a budget bill for our state, [Wisconsin Act 59](#), part of which (§ 66.0510, p. 233) prohibits all Wisconsin municipalities, counties, and school districts from offering employee benefit plan coverage to domestic partners of employees as of January 1, 2018. Since we're a state school, that includes us. What does this mean? It means that our health insurance plans will no longer cover domestic partners.

This includes:

- Our state group health insurance program (which we are on, as employees of a public institution)
- Our sick leave credits
- Our supplemental benefits insurance coverage

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<sup>1</sup> *The UW Office of Human Resources has reviewed the benefit information and insurance coverage quotes for accuracy. The legislative information, historical context and other non-benefit related items are not OHR's area of expertise.*

- Our long-term care coverage, and
- Our employee reimbursement and health savings account funds

(The effect of the bill includes a number of other non-healthcare related things, too, like excluding survivor benefits from retirement benefits, life insurance programs, duty disability benefits, and deferred compensation program.)

Here is what the ETF (the state agency that by law “administers retirement, insurance and other benefit programs for state and local government employees and retirees of the Wisconsin Retirement System”) has to say in an October 6 [news release](#):<sup>2</sup>

ETF has begun notifying members with a Chapter 40 domestic partnership about the effects of 2017 Wisconsin Act 59 on their Wisconsin Retirement System benefits, effective dates and available options going forward.

The law that provided members and their domestic partners certain benefits when the partnership was registered with ETF has been changed by 2017 Wisconsin Act 59, which was signed into law on September 21. As a result, some previous benefits, including health insurance, will no longer be available to domestic partners as of January 1, 2018. There are approximately 4,400 domestic partnerships registered with ETF.

If you are in the domestic partnership program, carefully review [ETF's letter](#), evaluate the changes outlined for each WRS benefit program and how they affect you, and take action (if necessary). Pay attention to the various effective dates of the changes so that you can make informed decisions about your options.

[ETF's letter](#)<sup>3</sup> points out a number of health care-related areas affected by the legislative changes, including:

- **Health insurance coverage:** Starting December 31, 2017, your group health insurance coverage for your domestic partner and your partner’s dependent children that are not your own dependent children will end. There is the opportunity for Cobra coverage for 36 months. And if you die before January 1, 2018, your partner may continue with any health insurance coverage that you have prior to your death.
- **Sick leave credit programs:** Your domestic partner and your partner’s dependent children may not use your accumulated sick leave credits if you die on or after January 1, 2018. If you die before that, though, your partner and your partner’s dependent children may use your accumulated sick leave credits, if they were covered on your group health insurance on your date of death.
- **Supplemental benefits insurance coverage:** The supplemental benefits coverage for your domestic partner and partner’s dependent children (who are not also your dependent children) will end on December 31, 2017. This includes supplemental benefit plans administered by Anthem DentalBlue, Zurich (accidental death and dismemberment), EPIC Benefits+, EPIC Dental WI and VSP. There is the opportunity for COBRA continuation.

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<sup>2</sup> ETF, [ETF Contacting Members in Domestic Partnerships About Loss of Benefits](#) (Oct. 6, 2017)

<sup>3</sup> ETF, [Letter](#) (Oct. 9, 2017)

- **Coverage that will continue:** There are two supplemental benefits programs administered by UW System that will continue to be available to domestic partners: Individual and Family Life Insurance, and the UW System Accidental Death and Dismemberment (AD&D) plan from Zurich.
- **Long-term care coverage:** Your partner won't be part of the ETF-associated long-term care insurance after December 31, 2017.
- **Employee reimbursement and health savings account funds:** If your domestic partner and/or your partner's dependent children are your legal dependents under tax filings, then you can continue to use your Employee Reimbursement Account (ERA) and/or Health Savings Account (HSA) funds to pay for eligible expenses. But this is through IRS regulations, which has the potential to change in this current Presidential administration.

### **Transgender health care coverage**

#### ***Short version:***

Health care treatments specific to transgender folks are no longer covered. Your ability to get coverage for particular treatments will likely therefore depend on whether you can characterize it as necessary apart from your transgender status. (Editorial: Yes, this sucks.)

#### ***Long version:***

Costs for transgender-specific medical treatments, including therapy, are excluded from our insurance plans. This current state of affairs comes from a rather long saga, of which this explainer only covers the tail end.

In May 2016, the Obama administration Department of Health and Human Services issued a [regulation](#) prohibiting entities implementing the Affordable Care Act from excluding transgender health treatments in their coverage.<sup>4</sup> The Wisconsin Group Insurance Board (GIB)<sup>5</sup>, based on this regulation, [voted in July 2016](#) to include transgender coverage in the 2017 plan, starting January 2017.<sup>6</sup> (Such coverage had previously been excluded.) On August 23, 2017, the state of Wisconsin filed a [lawsuit](#) in a Texas federal district court against the Obama administration challenging the legality of the rule.<sup>7</sup> In a meeting in December 2017 (apparently at the request of the Wisconsin Department of Justice), the GIB voted (7 in favor, 2 against, 2 not present) to require the ETF to reinstate the transgender coverage exclusions if a number of conditions were satisfied, mostly having to do with the state of the Wisconsin lawsuit against the Obama administration and the Wisconsin DOJ having to provide a memorandum regarding its position on the ETF's fiduciary duties.

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<sup>4</sup> Office for Civil Rights (OCR), Office of the Secretary, HHS, [Nondiscrimination in Health Programs and Activities](#), 81 Fed. Reg. 31,375

<sup>5</sup> This is a body composed of appointed and mandated members that sets policy and oversees administration of the group health, life insurance and Income Continuation Insurance plans for state employees and retirees and the group health and life insurance plans for local employers who choose to offer them. The ETF is required by law to implement the actions voted upon by the GIB.

<sup>6</sup> ETF [Correspondence Memo](#) (June 22, 2016) – materials for Jul. 12, 2016 GIB meeting; [agenda](#); [minutes](#)  
<sup>7</sup> [Franciscan Alliance, et al. v. Burwell, et al. Complaint](#)

On December 31, 2016, the Texas federal district court issued an order halting the implementation of the Obama administration rule.<sup>8</sup> So January 30, 2017, ETF found that the conditions were satisfied and issued a [memorandum](#) announcing the reinstatement of the transgender exclusions.<sup>9</sup>

At the same time as all of this was going on, the UW Faculty Senate had convened an ad hoc committee, known as the UW Ad Hoc Committee on Equitable and Inclusive Health Care, to provide an analysis and assessment of inclusive health care coverage within the University of Wisconsin. The Ad Hoc Committee presented its [final report and recommendations](#) to the Faculty Senate on March 6, 2017.<sup>10</sup> The committee recommended that the university:

- support and advocate for health insurance guidelines that are supportive of the full range of medical needs of transgender individuals,
- go on record as opposing any attempt to re-introduce the transgender exclusion into State of Wisconsin Group Health Insurance Plans under ETF,
- support steps to remove all “gender binary” assumptions in insurance payments for medical procedures, and
- in the event that the transgender exclusion is returned to state health insurance under ETF, that the university adopt a plan for supplementing state health insurance with a rider with costs to be shared by all university employees to cover transgender care.<sup>11</sup>

### **HIV antiviral co-payments**

#### ***Short version:***

Under the 2018 formulary, anti-viral drugs (the category under which HIV and PrEP medications fall) have been moved from level 4 to level 2. Level 2 drugs include a copay of 20% (\$50 max) for the SGH standard plan, which is down from the level 4 copays of hundreds of dollars per month. The formulary does change periodically throughout the year so employees should always check the current formulary or contact Navitus for information on pricing and/or specific drugs.

#### ***Long version:***

There’s not really a long version for this. The short version is pretty much it. But you can keep track of your benefits, including formularies, on ETF’s [website](#).

### **Gender Identifiers in UW Employee Records**

#### ***Short version:***

Gender identifiers under the UW Employee Records system currently resorts to a default of “Female” for those that choose “Other” or “Choose Not to Answer.” We are working both on the default system and also on concerns about the entry system of “Other.”

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<sup>8</sup> David Weigel, Federal Judge Issues Injunction Against Obama Administration Abortion, Transgender Regulations, Washington Post (Dec. 31, 2016).

<sup>9</sup> ETF [Correspondence Memorandum](#) (Jan. 30, 2017).

<sup>10</sup> UW Secretary of the Faculty, Faculty Senate [minutes 2017-03-06](#) and [audio recording](#) (0:17:03 to 0:27:56).

<sup>11</sup> Ad Hoc Committee on Equitable & Inclusive Health Care, [Final Report](#) (Jan. 31, 2017), Faculty Document 2674, p. 8.

### ***Long version:***

On October 10, 2017, the GLBTQ Committee met with colleagues from the UW–Madison Office of Human Resources. They informed us of the current state with respect to our employee recordkeeping. Currently, what they have is a system where, with respect to gender, employees can choose “Female,” “Male,” “Other” or “Unknown.” If an employee chooses either “Other” or “Unknown,” the response defaults to “Female” in ETF’s system. There are two tricky things with this situation. First, ETF is “vendor driven,” meaning they have to provide requested information to the insurance companies they deal with, which all request binary markers (either “Female” or “Male”). Second, the [process of changing a gender marker](#) with ETF is challenging and can take several weeks. To update their gender marker, an employee must submit a written request explaining why they need to make the change, as well as proof of identity and proof of gender to their HR or benefits person, who will then forward the documents to ETF for processing.<sup>12</sup> Regardless of the gender marker recorded with ETF, the original selection made by the employee is maintained in HRS (Human Resource System), which is the recordkeeping system used by UW System, including UW–Madison.

During the meeting, the GLBTQ Committee provided suggestions both regarding the use of the term “Other,” as well as ways to work with the default settings to better address employees’ actual genders. These developments are still ongoing.

### **Conclusion**

We hope that this explainer helps you better understand the current state of our health care coverage (and some recordkeeping stuff besides)! For further questions or suggestions, feel free to contact

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Associate Professor, Law School

### **Resources**

[Department of Employee Trust Funds](#) (ETF)

[UW System Benefits Information](#)

[UW–Madison Benefits Information](#)

For benefits-related questions, please contact [benefits@ohr.wisc.edu](mailto:benefits@ohr.wisc.edu)

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<sup>12</sup> [Policy to Change Gender in myETF Benefits](#) (effective: Jan. 1, 2017; updated: March 22, 2017)