



NATIONAL CENTER FOR LESBIAN RIGHTS

## **FREQUENTLY ASKED QUESTIONS on AB 641** *Important New Medicaid Spousal Impoverishment Protections*

On Wednesday, June 13, 2012, the U.S. Department of Health and Human Services approved California's plan to extend Medi-Cal spousal impoverishment protections to same-sex couples. Assemblymember Mike Feuer authored this groundbreaking law. What does this mean for LGBT people in California?

### **1) What are Medi-Cal spousal impoverishment protections?**

When a person goes into long-term care, Medi-Cal coverage only kicks in once that person has spent down enough of his or her assets and income to qualify. The federal government treats single and coupled people differently under these rules. In California, for instance, a spouse whose partner is in a nursing home can keep assets up to \$113,640 and monthly income of \$2,841 without losing Medi-Cal coverage for the long-term care facility. A single person, by contrast, can only keep assets up to \$2,000 and monthly income (personal needs allowance) of \$35. The federal government allows a spouse to keep these assets because he or she will need that money to cover expenses (rent, food, medicine) even after his or her partner enters the nursing home. If the couple's required contribution of assets and income is not enough to cover the nursing home costs, the state and the federal government then split the remaining bill roughly in half (this varies by state).

### **2) What does this have to do with same-sex couples?**

Until June 2011, same-sex couples were not covered by these important protections. If a man with a male partner had to go into long-term care, his eligibility for Medi-Cal coverage would be governed under the rules for single people—leaving his partner with far fewer assets and income. This was especially a problem when the partner entering the nursing home was the higher-earning partner. Virtually all of that partner's assets and income had to be spent, leaving nothing for the partner who remained outside the nursing home.

### **3) What changed in June 2011?**

In June 2011, the Obama administration released guidance to the states permitting them to extend the spousal impoverishment protections to same-sex couples with full federal support. Some states like Massachusetts, Connecticut, and Vermont had already put in place spousal impoverishment protections for same-sex couples, but those states took on the responsibility of paying for the entire nursing home bill themselves, knowing that the federal government wouldn't help. With the new rule,

however, California could pass a law protecting same-sex couples and still get financial support from the federal government.

#### **4) So, how does this affect same-sex couples in California?**

In October 2011, Governor Jerry Brown signed AB641, a bill authored by Assemblymember Mike Feuer that extends these income and asset protections to same-sex Registered Domestic Partners or same-sex married couples in California. These couples will now be subject to the same rules as other married couples. The law was written to take effect once the federal government confirmed that it would split the tab for same-sex couples in the same way it does for different-sex couples. On Wednesday June 13, 2012, as expected, the Obama administration came through and approved the plan.

#### **5) What's next?**

The California Department of Health Care Services is going to issue a letter to all the relevant state offices in the coming weeks to let them know about this important change. If you think this change could affect you, please call the National Center for Lesbian Rights for tips and assistance.

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