



## Domestic Partner Benefits for UW System Employees

This document provides a summary of domestic partner benefits available to UW System employees. The following topics are addressed in this document:

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### Qualifications of a Domestic Partnership

Effective January 1, 2010, the same-sex or opposite-sex domestic partner and the partner's eligible dependent children will be eligible for coverage under all employee benefits offered to UW System employees that provide dependent coverage.

The partnership must meet all of the criteria outlined in Chapter 40 of Wisconsin State Statute in order to be considered a domestic partnership for benefit purposes:

- Each individual is at least 18 years old and competent to enter into a contract;
- Neither individual is married to, or in a domestic partnership with another person;
- Their partnership must not violate Wis. Stats. 765.03, which bars marriage between certain persons based on kinship and divorce;
- They must consider themselves to be members of each other's immediate family;
- They must agree to be responsible for each other's basic living expenses;
- They share a common residence - any of the following conditions may apply:
  - Only one partner has legal ownership of the residence (if ownership is applicable).
  - One or both partners have additional residences not shared with the other partner.
  - One partner leaves the common residence with the intent to return.

See the Department of Employee Trust Funds (ETF) Domestic Partner Benefit Brochure:

<http://www.etf.wi.gov/publications/et2166.pdf> for detailed information regarding domestic partner coverage.

### Employee Benefit Plan Types

There are two types of employee benefits – benefits authorized under Chapter 40 of Wisconsin Statute that are administered by ETF and employee-pay-all optional benefit plans that are considered “non-Chapter 40 benefits” that are not administered by ETF.

Employee benefits administered by ETF and authorized under Chapter 40 of Wisconsin Statute are referred to as “**Chapter 40 benefits**” and include:

- [State Group Health Insurance \(application\)](#)
- [State Group Life Insurance \(application\)](#)
- Wisconsin Retirement System (WRS) Benefits
- Wisconsin Deferred Compensation

Optional employee-pay-all benefit plans that are not authorized by Chapter 40 are referred to as “**non-Chapter 40 benefits**” and include:

- [EPIC Benefits+ \(application\)](#)
- [Dental Wisconsin \(application\)](#)
- [Anthem DentalBlue Dental Insurance \(application\)](#)
- [VSP Vision Insurance \(application\)](#)
- [Individual and Family Group Life Insurance \(application\)](#)
- [Accidental Death & Dismemberment Life Insurance \(application\)](#)

## **Creating a Domestic Partnership for Benefit Purposes**

There are two different types of domestic partnerships for benefit purposes. If an employee wants to cover a domestic partner under Chapter 40 benefits, including health insurance, the employee must create a Chapter 40 domestic partnership. Once a Chapter 40 domestic partnership is created, an employee is eligible to add a domestic partner to all benefit plans, including both Chapter 40 and non-Chapter 40 plans. If an employee does not want to create a Chapter 40 domestic partnership, the employee can create a UW System domestic partnership for non-Chapter 40 benefit plans only.

**IMPORTANT:** If an employee registered a domestic partnership in Wisconsin or any other state, the employee is still required to establish a Chapter 40 or UWS domestic partnership prior to enrolling a domestic partner in employee benefits. An *Affidavit of Domestic Partnership* cannot be accepted after the employee’s death.

### ➤ **Creating a Chapter 40 Domestic Partnership**

1. Complete and submit a notarized ETF Affidavit of Domestic Partnership (ET-2371):  
<http://www.etf.wi.gov/publications/et2371.pdf> directly to ETF.
  - Mail the original affidavit to: Department of Employee Trust Funds, P.O. Box 7931, Madison, Wisconsin 53707-7931; or
  - Fax to ETF at 608-267-4549. Please note that ETF may require the original affidavit if the electronic transmission is illegible.
2. The date ETF receives a valid ETF Affidavit of Domestic Partnership (ET-2371) is the effective date of the domestic partnership for Chapter 40 benefit purposes.
  - If a new employee or a newly benefits-eligible employee submits an affidavit to ETF before ETF receives notice that the employee is either benefits or WRS-eligible, ETF will hold the affidavit until notice is received. The affidavit will be effective on the earliest of:
    1. The WRS effective date, provided the affidavit is received prior to that date; or
    2. The health insurance effective date (applies to non-WRS covered employees eligible for graduate assistant/short-term academic health insurance only).
3. An employee must only submit an affidavit once to ETF – once the domestic partnership is effective, it will apply to all benefit plans, both Chapter 40 and non-Chapter 40 plans.
4. If both partners are state or UWS employees, they only need to submit one affidavit. The Chapter 40 domestic partnership will apply to both people.
5. ETF will send an acknowledgement letter to the employee confirming the effective date of the domestic partnership. A copy of this letter must be included with the applications to enroll the domestic partner and his/her eligible children in any benefit plans.
6. An employee is not required and should not complete the UWS Affidavit of Domestic Partnership (UWS-50) if the employee establishes a Chapter 40 domestic partnership.

➤ **Creating a UW System Domestic Partnership for non-Chapter 40 Benefits Only** (employee does NOT create a Chapter 40 domestic partnership)

1. Employees can only create a UW System domestic partnership if they have not established a Chapter 40 domestic partnership. A UW System domestic partnership applies only to non-Chapter 40 employee benefits.
2. Submit a notarized UW System Affidavit of Domestic Partnership (UWS-50): <http://www.uwsa.edu/hr/benefits/ins/uws50.pdf> to the employee's campus payroll and benefits office.
  - Employees may hand deliver, mail, email or fax the affidavit but the original affidavit may be required if the electronic transmission is illegible.
3. The date UWS receives the valid UWS Affidavit of Domestic Partnership (UWS-50) will be the effective date of the partnership for non-Chapter 40 benefit purposes.
4. An employee must only submit an affidavit once to UWS – once the domestic partnership is effective, it will apply to all non-Chapter 40 benefit plans.
5. The institution payroll & benefits office that approves the affidavit will send a domestic partnership confirmation letter to the employee confirming the effective date of the UWS domestic partnership.
6. If both partners are UWS employees, the employee named as “domestic partner” must submit a copy of the UWS domestic partnership confirmation letter to his/her own payroll & benefits office.
7. If the employee has appointments at more than one campus or institution, the employee should advise all employing benefits offices that a domestic partnership has been created.
8. If an employee created a UWS domestic partnership prior to January 1, 2010 and benefits for the partner were effective prior to January 1, 2010, the employee does not need to submit an updated and notarized UWS affidavit to maintain coverage for the domestic partner. Coverage for the domestic partner will automatically continue.

**IMPORTANT:** If an employee establishes a Chapter 40 domestic partnership AFTER creating a UW System domestic partnership that is effective January 1, 2010 or later, the employee will NOT have a new enrollment opportunity for non-Chapter 40 benefits when the Chapter 40 domestic partnership is established. The employee will only be eligible to enroll in State Group Health and State Group Life Insurance upon the establishment of a Chapter 40 domestic partnership.

- The employee will have the opportunity to add the domestic partner and his/her eligible dependents to non-Chapter 40 benefit plans during subsequent open enrollment periods.

### **Things to Consider Before Establishing a Domestic Partnership for Benefit Purposes**

- If you want to cover your domestic partner on health insurance, you must create a Chapter 40 domestic partnership.
- Adding a domestic partner to your health insurance coverage will create potentially sizable tax consequences unless the domestic partner is a “qualifying dependent” for federal tax purposes. See the [“Tax Consequences”](#) section for more information.
- Prior to August 1, 2010, if you carried family health insurance prior to the domestic partnership effective date, you were required to add your domestic partner to your family health insurance policy, even if your partner had health insurance through another source.
- If you establish a Chapter 40 domestic on or after August 1, 2010, you are no longer required to add your domestic partner and your partner's eligible dependents to your family health insurance. If you want to cover your partner's eligible dependents, you are required to cover your domestic partner as

well. If you do not add your domestic partner and his/her eligible dependents within 30 days of establishing a Chapter 40 domestic partnership and later want to add them to your coverage, you may:

- Enroll them during the October *It's Your Choice* health insurance enrollment/change period with coverage effective on January 1; or
  - Enroll them within 30 days of losing other coverage; or
  - Enroll them at any time by submitting an application to change to the Standard Plan. Coverage is effective on the first of the month on or after the application is received by your benefits office. Any newly added dependents age 19 or older will be subject to a 180-day waiting period for coverage of pre-existing conditions.
- If you carry single coverage prior to the Chapter 40 domestic partnership effective date, you may change to family coverage to add your domestic partner and his/her eligible dependents within 30 days of ETF's receipt of the valid ETF Affidavit of Domestic Partnership (ET-2371). You are **NOT** required to add your partner to health insurance.
  - If you create a Chapter 40 domestic partnership and the partnership later ends, your former partner can file a Qualified Domestic Relations Order (QDRO) to receive a portion of your Wisconsin Retirement System (WRS) account.
  - You can name your domestic partner as a beneficiary on all life insurance plans, your WRS account, Wisconsin Deferred Compensation account and your Tax-Sheltered Annuity accounts without creating a Chapter 40 or UWS domestic partnership.
  - You can name your domestic partner as your joint survivor on your retirement annuity without creating a Chapter 40 domestic partnership (federal age limits apply).

## Enrollment

- ***If an employee establishes a Chapter 40 domestic partnership***, the employee has 30 days from the domestic partnership effective date to enroll a domestic partner and partner's eligible children in all benefits plans (both Chapter 40 and non-Chapter 40 plans).
  - The employee must submit the applicable enrollment application(s) and a copy of ETF's domestic partnership acknowledgement letter to the appropriate UW institution payroll and benefits office within 30 days of the domestic partnership effective date.
  - Employees can submit enrollment applications prior to receiving ETF's acknowledgement letter but the applications will not be processed until the payroll and benefits office receive a copy of the ETF letter.
  - **New Employees - if acknowledgement letter is not received within 30 days of domestic partnership effective date:** ETF will not process a domestic partnership affidavit until the UW enrolls the employee in the WRS (if eligible) or until they receive a health insurance application (if someone is not eligible for the WRS). This may cause a delay in processing and the acknowledgement letter may be sent more than 30 days after the domestic partnership effective date. New employees should submit an application(s) at the same time or within 30 days of submitting the affidavit to ETF to ensure that the enrollment application(s) is received timely.
  - If an employee previously established a UW System domestic partnership effective January 1, 2010 or later with the same domestic partner, the employee will NOT have a new enrollment opportunity in non-Chapter 40 benefits upon the establishment of a Chapter 40 domestic partnership.
- ***If an employee establishes a UWS domestic partnership instead of a Chapter 40 domestic partnership***, the employee has 30 days from the domestic partnership effective date to enroll a domestic partner and partner's eligible children in all non-Chapter 40 benefit plans. The employee must

submit a valid UWS Affidavit of Domestic Partnership (UWS-50) and applicable enrollment application(s) to the appropriate UW institution payroll and benefits office within 30 days of the domestic partnership effective date.

- All enrollment applications are online at: <http://www.uwservice.wisc.edu/forms.php>.
- **New Hires/Newly Benefits Eligible** – if an employee establishes either a Chapter 40 or UW System domestic partnership on or before the effective date of coverage (ex. employee establishes a domestic partnership on January 15 and health insurance coverage is effective on February 1), the employee can cover a domestic partner and partner's children from the first day of coverage under all plans. If the domestic partnership has not been established prior to the effective date of coverage, the employee must submit another application(s) within 30 days of the domestic partnership effective date to enroll the partner and partner's children, even if family coverage is already in effect.

### Effective Date of Domestic Partner Coverage

- *State Group Health Insurance:* Coverage is effective on the effective date of the domestic partnership, provided an application is submitted within 30 days of the Chapter 40 domestic partnership effective date.
- *All Plans Except State Group Health Insurance:* Coverage is effective on the first of the month on or following receipt of an application, provided the domestic partnership is in effect. Applications to enroll a domestic partner and partner's eligible children in coverage must be submitted within 30 days of the domestic partnership effective date. *Exception:* Employees may submit an application to add a domestic partner to AD&D Life Insurance coverage at any time after the domestic partnership effective date – there is no enrollment deadline under this plan.

### Tax Consequences

If your domestic partner or your partner's eligible dependents are not considered tax dependents for health insurance purposes under federal law, your health insurance premium will continue to be deducted on a pre-tax basis; however, the fair market value of the health insurance benefits provided to your partner and partner's eligible dependents will be included in your gross income. This amount is considered "imputed income." Unless your domestic partner and/or partner's children qualify as dependents under the Internal Revenue Code (IRC) §152, you will be taxed on the fair market value of the cost of coverage provided to them.

In order to be considered a tax dependent, your domestic partner must meet the federal qualifications for a "qualifying relative." Please see [IRS Publication 501](#) or the [IRS Form 1040 Instructions](#), pages 17-20, for more information.

In general, the IRS requires that a "qualifying relative" meet four tests:

1. The person does not meet the "qualifying child" tests;
2. The person must live with you all year as a member of your household (and your relationship must not violate local law);
3. The person's gross income must be less than \$3,650 for the year. (*However, under [Internal Revenue Service Notice 2004-79](#), this gross income limit does not apply for purposes of determining tax dependent status when you are covering the person on your health insurance policy. For health insurance purposes, the domestic partner only needs to meet the remaining three tests to be a qualifying relative.*)
4. You must provide more than half of the person's support for the year.

To help you determine if you provide 50% of your partner's support, please complete the [Tax Dependent Status Worksheet](#). This worksheet should not be used as the sole source of information for determining your domestic partner's tax status. UWSA staff cannot provide tax advice and you should consult all applicable IRS materials

and a tax advisor if you have questions regarding federal tax rules. If you need to change the tax status of your domestic partner, please complete the [Dependent Tax Status Change Form](#) (UW1541) and submit it to your payroll and benefits office.

For those with an HMO for health insurance, if there is one non-tax dependent under a family health insurance policy, additional taxes due to imputed income average \$150 - \$250/month and if there are 2 or more non-tax dependents, additional taxes average \$350-\$450/month. **Imputed income calculators** are available on the [UW Service Center website](#). These calculators can help you estimate your additional tax liability.

If you carry a domestic partner or partner's children on VSP Vision Insurance, EPIC Benefits+, Dental Wisconsin or Anthem DentalBlue Dental Insurance, the premium will be taken on a post-tax basis. Premiums for all life insurance programs, except for a small portion of the premium for State Group Life, are taken on a post-tax basis for all employees, regardless of whether or not a domestic partner is covered.

It is recommended that you consult a tax advisor to help you determine how imputed income will affect your tax liability. Please also see [IRS Publication 501](#) to help you determine if your domestic partner or domestic partner's children qualify as tax dependents. For more information about imputed income, please see the "Tax Dependent Status and Domestic Partnership" section of [ETF's Domestic Partner Benefits Brochure](#).

## Plan Specific Information About Domestic Partner Coverage

Some plans have specific requirements that must be fulfilled before a domestic partner or partner's children can be added to coverage.

- **State Group Life Insurance** - An employee must carry employee coverage in order to add Spouse/Domestic Partner & Dependent coverage.
  - *If Spouse/Domestic Partner & Dependent coverage is already in effect on Chapter 40 domestic partnership effective date, the domestic partner and partner's children will automatically be covered. An enrollment application is not necessary.*
  - *If Spouse/Domestic Partner & Dependent coverage is not in effect on Chapter 40 domestic partnership effective date and the domestic partner is the first eligible dependent, the employee must submit an application to enroll in coverage within 30 days of the Chapter 40 domestic partnership effective date.*
  - *If Spouse/Domestic Partner & Dependent coverage is not in effect on Chapter 40 domestic partnership effective date and the employee has other eligible dependents (ex. the employee has eligible dependent children), the employee can only enroll a domestic partner and all other eligible dependents through [Medical Evidence of Insurability](#).*
- **Individual & Family Group Life Insurance** - An employee must carry employee coverage in order to add Spouse/Domestic Partner or Child coverage. An enrollment application is required to add the domestic partner to coverage.
  - *If Child Coverage is in effect on domestic partnership effective date, the domestic partner's eligible children will automatically be covered.*
  - *If Child Coverage is not in effect on domestic partnership effective date and the domestic partner's children are the first eligible dependent children under the plan, the employee must submit an application to enroll in Child Coverage within 30 days of the domestic partnership effective date.*
  - *If Child Coverage is not in effect on domestic partnership effective date and the employee has other eligible dependent children, the employee can only enroll eligible children through [Medical Evidence of Insurability](#).*
- **Accidental Death & Dismemberment Life Insurance** – If an employee carries a family policy on the domestic partnership effective date, coverage automatically extends to the domestic partner and partner's eligible children. An enrollment application is not necessary. If an employee carries Employee

Only coverage on the domestic partnership effective date, the employee can enroll in a family policy at any time by submitting an application to change to family coverage. There is no 30 day enrollment requirement under this plan.

- **[Employee Reimbursement Accounts](#)** – Medical expenses incurred by domestic partner are not eligible for reimbursement through the ERA program unless the domestic partner meets the IRS definition of a qualified dependent for tax purposes. Dependent care expenses of a domestic partner's child are not eligible for reimbursement unless the child meets the definition of a qualifying child or relative. Please see the [ERA benefits booklet](#) for a more extensive definition of a qualified dependent. See [IRS Publication 501](#) for more information about tax dependent eligibility.
- ***Wisconsin Retirement System*** - An employee must submit a valid Affidavit of Domestic Partnership (ET-2371) to ETF to create a Chapter 40 domestic partnership for WRS purposes. A domestic partner will have the same rights as a spouse relative to an employee's WRS account with one exception - per federal Internal Revenue Code, if a non-spouse is more than 19 years younger than his/her partner, the employee cannot select a joint and survivor annuity option.
- **[Long Term Care Insurance](#)** – an employee's domestic partner may apply for long-term care insurance coverage under the programs approved by the Department of Employee Trust Funds. For more information, see ETF's website: [http://etf.wi.gov/members/benefits\\_ltc.htm](http://etf.wi.gov/members/benefits_ltc.htm).

## Leave Benefits

***Job-protected leave to care for a domestic partner:*** The [Wisconsin Family Medical Leave Act \(WFMLA\)](#) provides up to two weeks of job-protected leave per year to care for a domestic partner and a domestic partner's parent. There is no provision under **federal FMLA** to care for a domestic partner. An employee is required to certify the domestic partnership on the [Employee Request for Family and/or Medical Leave \(UWS-80\)](#) form before taking a WFMLA-covered leave to care for a domestic partner. The employee is not required to establish a Chapter 40 or UWS domestic partnership prior to taking a WFMLA-covered leave.

***Job-protected leave to care for a domestic partner's child with a serious health condition and/or to bond with a domestic partner's child after birth/placement for adoption:*** The [Federal Family Medical Leave Act \(FMLA\)](#) provides up to 12 weeks of job-protected leave per year to care for a domestic partner's child, provided that the employee stands *in loco parentis* to the child. An employee is considered to stand *in loco parentis* to a child if the employee has day-to-day responsibilities relative to his/her partner's child – no biological or legal relationship to the child is required. An employee is entitled to an FMLA leave to bond with the child following birth or placement for adoption and to care for the child if the child has a serious health condition.

UW System Administration decided to include the *in loco parentis* relationship in the administration of WFMLA for UW System employees, so employees are able to take up to two weeks of WFMLA-covered leave to care for a domestic partner's child with a serious health condition and take up to six weeks of WFMLA-covered leave to bond with the child within 16 weeks of birth or adoption. If an employee is eligible to take a leave under both FMLA and WFMLA, the leaves run concurrently.

All types of paid leave, including sick leave, can be used during a WFMLA-covered leave. All accrued leave, except sick leave, may be used during a FMLA-covered leave unless the reason for the FMLA leave qualifies as a reason to use sick leave.

***Using Sick Leave to Care for Domestic Partner During Illness or Bereavement Leave*** - The following groups of employees may use sick leave to care for a domestic partner and after the death of a domestic partner:

- Unclassified employees
- Classified Employees covered under the following bargaining agreements:
  - WI Professional Employees Council (WPEC)
  - WI Science Professionals (WSP)
  - WI Educational Assoc Council (WEAC)

- SEIU Healthcare District 1199
- Professional Employees in Research Statistics & Analysis (PERSA)
- State Engineering Association (SEA)
- Teaching Assistants' Association (TAA)
- Milwaukee Graduate Assistants' Association (MGAA)
- Law Enforcement - **Bereavement Leave Only**
- WI State Employees Union (WSEU) – **Bereavement Leave Only**

Non-represented classified & classified employees not covered by the above bargaining agreements are NOT permitted to use sick leave to care for a domestic partner during illness (unless employee is on a WFMLA-covered leave which allows the use of sick leave) or after the death of a domestic partner.

- [UPG #10](#) governs leave for unclassified employees
- [Bargaining Agreements](#) govern leave usage for classified represented employees
- [ER 18](#) governs sick leave usage for non-represented classified staff

## Termination of a Domestic Partnership

If a domestic partnership terminates, coverage for the domestic partner and his or her dependent children terminates at the end of the month in which the relationship ends. The employee is responsible for submitting benefit applications to remove the domestic partner and partner's children from coverage within 30 days of the partnership end date. The former partner and partner's children may be eligible for continuation and/or conversion rights if notification of the termination of domestic partnership is receiving timely. If notice is not received timely, the domestic partner and partner's dependents may lose the right to continue to convert coverage. See [Terminating a Domestic Partnership \(UWS-48\)](#) for more information.

## Resources

[ETF Domestic Partner Benefits webpage](#)

[UW System Administration's Domestic Partner Benefits webpage](#)

[UW Service Center's Imputed Tax webpage](#)

[UW System's Inclusivity Initiative for LGBTQ people](#)

[LGBTQ Inclusivity Initiative Resource page](#) (includes resources for each UW System institution)

*Every effort has been made to ensure that this information is correct and current. However, the terms and conditions of UW benefits programs are established by state and federal laws and regulations, the relevant contracts, and the policies of the Board of Regents. These sources of authority have control over the information in this fact sheet to the extent there are any differences or conflicts.*