

OFFICE OF REFUGEE RESETTLEMENT

An Office of the Administration for Children & Families

State Letter 14-03

Guidance for FY-14 ORR-1 Same-Sex Couple Benefits

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Categories: Cash and Medical Assistance

TO: STATE REFUGEE COORDINATORS
STATE REFUGEE HEALTH COORDINATORS

FROM: Eskinder Negash, Director
Office of Refugee Resettlement, Administration for Children and Families
U.S. Department of Health and Human Services

SUBJECT: Guidance for FY-14 ORR-1 Same-Sex Couple Benefits

Purpose of this Letter

On June 26, 2013, in *United States v. Windsor*, 570 U.S. ___, the U.S. Supreme Court held unconstitutional section 3 of the Defense of Marriage Act, which prohibited federal recognition of same-sex spouses and marriages. ORR is issuing this guidance in keeping with HHS' post-Windsor policy of treating same-sex marriages on the same terms as opposite-sex marriages to the greatest extent reasonably possible.

For both Refugee Cash and Medical Assistance, ORR encourages all States and Wilson-Fish agencies to treat legally married same-sex couples, based on the jurisdiction where the marriage was celebrated, in the same manner as opposite-sex couples, when possible, when determining eligibility or availability of refugee services. For purposes of these benefits, States and Wilson-Fish agencies are encouraged to recognize same-sex marriages valid in the state, territory, or foreign jurisdiction where the marriage occurred, as long as a U.S. jurisdiction would also recognize the marriage, and regardless of whether the individuals are now living in a state or territory that recognizes the marriage. ORR recognizes that for refugee cash assistance, States are permitted to use financial eligibility methods used elsewhere in the State's TANF program (45 C.F.R. § 400.65). Further, for refugee medical assistance, States are required, in certain situations, to use financial eligibility methods used in the State's Medicaid program (45 C.F.R. § 400.101; State Letter 13-09, The Affordable Care Act, Waiver of Financial Eligibility Standards for ORR Refugee Medical Assistance, and Application of the MAGI Income Methodology).

However, the Director has broad waiver authority under 45 C.F.R. § 400.300. Therefore, States that wish to receive technical assistance in order to recognize legally married same-sex individuals to the same extent as opposite-sex individuals should contact ORR to determine whether a waiver or State plan amendment is necessary to achieve these important goals.

We appreciate your attention and recognition of this ground-breaking decision.

Please direct any questions on this State Letter to **Mitiku Ashebir** (<https://web.archive.org/web/20191114142918/mailto:mitiku.ashebir@acf.hhs.gov>), Director, Division of Refugee Assistance (DRA), (202) 205-3602.