

Social Security

Official Social Security Website

MENU

Program Operations Manual System (POMS)

TN 10 (06-14)

GN 00210.400 Same-Sex Marriage - Benefits for Surviving Spouses

A. Introduction to policy and procedures for same-sex surviving spouse claims

Because of the *Windsor* decision, we are now able to process many surviving spouse (widow and widower) claims involving same-sex marriages and non-marital legal relationships, including Title II benefit claims restricted to "Medicare-only."

IMPORTANT: Review surviving spouse claims and appeals that have been on hold for possible processing now.

B. Instructions for same-sex surviving spouse claims: determining the status and duration of the relationship

Use these steps to process same-sex surviving spouse claims.

Step	Action
1	<p>In the field office (FO) and workload support unit (WSU):</p> <ul style="list-style-type: none"> Establish the claim in MCS. Follow established policy on protective filing as in GN 00204.010. Do not consider the date of the <i>Windsor</i> decision when determining a protective filing date. <p>Go to step 2.</p>
2	<p>Consult GN 00210.002, GN 00210.004, and GN 00210.006 to determine if we will recognize the marriage or non-marital legal relationship for the purposes of Title II</p>

	<p>and Medicare benefits.</p> <p>If you determine that we will recognize for the purposes of Title II and Medicare benefits the same-sex marriage or non-marital legal relationship, go to step 3.</p> <p>If you determine that we will not recognize for the purposes of Title II and Medicare benefits the same-sex marriage or non-marital legal relationship, go to GN 00210.400E to deny the claim.</p>
3	<p>Does the claimant meet the duration of marriage requirement as set out in RS 00207.001.A.1.a?</p> <p>NOTE: Do not consider the date of the <i>Windsor</i> decision in determining the duration of marriage. Rather, rely on the date the couple was married.</p> <p>If yes, go to GN 00210.400C.</p> <p>If no, go to step 4.</p>
4	<p>Does the claimant allege</p> <ul style="list-style-type: none"> • that the relationship began as a non-marital legal relationship that later converted to a marriage, or • more than one non-marital legal relationship or • a combination of one or more non-marital legal relationships and marriages to the NH, <p>which may, in total, equal or exceed 9 months?</p> <p>If yes, refer this claim to the ORCC for legal opinion.</p> <p>If no, go to step 5.</p>
5	<p>Does the claimant meet one of the conditions in RS 00207.001A.1.a.8 or in RS 00207.001A.1.a.9 as alternatives to the 9-month duration of marriage requirement?</p> <p>If yes, go to GN 00210.400C.</p> <p>If no, go to step 6.</p>
6	<p>Is it possible that the claimant meets one of the alternatives to the 9-month duration of marriage requirement in RS 00207.001A.1.a.3. through RS 00207.001A.1.a.7?</p> <p>If yes, hold the claim, following instructions in GN 00210.005.</p> <p>If no, go to step 7.</p>
7	<p>Does the claimant meet one of the conditions in GN 00305.100A.2 allowing us to deem the 9-month duration of marriage requirement?</p> <p>If yes, go to GN 00210.400C.</p> <p>If no, go to GN 00210.004E in this section to deny the claim.</p>

C. Instructions for same-sex surviving spouse claims: determining other factors of entitlement

Use these steps to determine other factors of entitlement for same-sex surviving spouse claims.

Step	Action
1	Has the claimant remarried, since the NH's death? If yes , hold the claim per GN 00210.005. If no , go to step 2.
2	Does the claimant meet all other requirements for surviving spouse benefits, according to RS 00207.001 and DI 10110.001? If yes , go to GN 00210.400D to process an award. If no , go to GN 00210.400E to deny the claim.

D. Instructions for same-sex surviving spouse claims: processing an award

1. Processing an award in the field office and workload support unit (WSU)

1	Process the award as follows: On the development worksheet (DW01), enter as the first four positions of the unit the type code that corresponds to the status alleged by the claimant at the time of the application. Retain this as the unit code, regardless of the outcome or changes in the adjudicative level of the case.												
	<table border="1"> <thead> <tr> <th>Type of Same-Sex Relationship When Established</th> <th>Code</th> </tr> </thead> <tbody> <tr> <td>Marriage</td> <td>626M</td> </tr> <tr> <td>Civil Union</td> <td>626C</td> </tr> <tr> <td>Domestic Partnership</td> <td>626D</td> </tr> <tr> <td>Reciprocal Beneficiary</td> <td>626R</td> </tr> <tr> <td>Other</td> <td>626O</td> </tr> </tbody> </table>	Type of Same-Sex Relationship When Established	Code	Marriage	626M	Civil Union	626C	Domestic Partnership	626D	Reciprocal Beneficiary	626R	Other	626O
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	<ul style="list-style-type: none"> • Follow procedures as in GN 00204.007 for determining month of entitlement based on date of filing of application. Do not consider the date of the <i>Windsor</i> decision. • Document all pertinent information regarding the claim on the Report of Contact screen (RPOC). <ul style="list-style-type: none"> ◦ Add Listing Code 626 on the DECI screen. 												

	<ul style="list-style-type: none"> ○ The claim will not process through EC. You will receive this edit: "SPOUSE SEX EQUALS NH SEX." Process the claim using an A101/EF101. ○ On the Account Data (ACCT) Screen of the A101/EF101, enter a "Y" in the Critical Case field. ○ Annotate "626 Case" on the BCRN/EFBCRN screen.
	<p>Is the claimant also applying for Medicare?</p> <p>If yes, go to step 2.</p> <p>If no, go to step 3.</p>
2	<p>See SM 00850.000 and MSOM MCS 014.011- MSOM MCS 014.016 for HI/SMI enrollment entries. For disabled surviving spouses who might be eligible for Medicare, see RS 00207.020.</p> <p>Go to step 3.</p>
3	<p>Monitor the case. Does it process to a timely completion, based on Month of Election (MOE) and Current Operating Month (COM)?</p> <p>If yes, stop.</p> <p>If no, use Manager to Manager, critical request (PR Problem) to follow-up with the Processing Center (PC), annotating "<i>Windsor Case</i>" in the description of problem section in Manager-to-Manager. Continue to monitor the case.</p>

2. Processing an award in the processing center

Step	Action
1	<p>Process the award as follows:</p> <ul style="list-style-type: none"> • Follow established local procedure for routing the A101/EF101 to the BA for review. • Establish a PCACS listing code "626." <p>Are there any discrepancies or processing issues?</p> <p>If yes, go to step 2.</p> <p>If no, propagate the A101/EF101 into MACADE, process the claim, and send a notice. Stop.</p>
2	<p>Route the claim to the CA. The CA resolves any discrepancies or processing issues and routes the claim to the BA.</p> <p>Go to step 3.</p>

3	Process the award as in step 1, above.
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E. Processing disallowances

NOTE: If you question if a disallowance is the correct action, establish a 60-day diary on the DW01 and contact your regional office for guidance via vHelp.

1. Field Office (FO) and Workload Support Unit (WSU) actions

- Take the claim in MCS.
- On the development worksheet (DW01) screen in MCS, enter the applicable code from the chart below in the first four positions of the unit code to identify these cases.
- Add the appropriate code as an issue on the DW01 screen from the chart below, and enter "See RPOC" in the remarks section.

Type of Same-Sex Relationship When Established	Code
Marriage	626M
Civil Union	626C
Domestic Partnership	626D
Reciprocal Beneficiary	626R
Other	626O

- On the report of contact (RPOC) screen, enter all pertinent information regarding the decision to disallow the claim including POMS references used to make the determination. Also, include contact information for the claims representative (CR) and management official who approved the decision.
- On the decision input (DECI) screen, under non-DOFA reasons mark the claim as non-DOFA using the type code of 1 (PRECEDENT REQ).
- Transfer the claim to the PC using option 7 (Case Movement) on the MCS systems menu. NOTE: all claims should be fully documented, complete, and ready for processing at the time of transfer. Enter any associated proofs into NDRED/CFRMS and shared processes (EVID screen).
- Send an email to servicing processing center's (PC) Windsor mailbox from the list provided below to notify them that the claim is being transferred for review and processing.

PC Windsor Mailboxes:

- PC1: ^NEPSC 626
 - PC2: ^PH PA MATPSC Windsor Cases
 - PC3: ||SEPC IE
 - PC4: ||CHI ARC PCO OSB WINDSOR
 - PC5: ^SF CA WNPSC WINDSOR
 - PC6: ||KC OAS
 - PC7: ||OCO ODO OSB
 - PC 8: ||OCO OIO
- The subject line of the email must read "Windsor Case Disallowance". The body of the email must include the following information.
 - SSN(s) (NH, claimant, and applicant),
 - type of claim involved (aged spouse, surviving spouse, LSDP, premium surcharge rollback, etc.),
 - type of same-sex relationship involved (marriage, civil union, domestic partnership, etc. and the facts of the relationships such as dates and location of events),
 - what types of documents were faxed into NDRED or entered into the EVID screen (if any), and
 - any other helpful remarks such as Congressional interest, dire need, etc.
 - Monitor the claim. If the case has not been processed within 15 days, the field office (FO) manager should use the manager-to-manager process to follow-up with the corresponding PC manager. The FO manager should identify the claim as a critical case request (PR Problem) and annotate "Windsor Case" in the description of problem section in manager to manager.

F. Processing Center (PC) actions

- Each PC will monitor their Windsor mailbox and WMS listings.
- Upon receipt of the email, the PC will establish an ACR with TOEL "CLAIM WINDSOR".
- Receipt the MCS claim.
- Route the claim to the designated centralized processing unit for review and processing.

- Review RPOC and ensure all evidence is properly documented.
- Process the disallowance via MCADE and send the appropriate notice.

G. Processing reconsiderations and hearing requests

1. Field Office (FO) actions

- Load the reconsideration or hearing request in MCS.
- On the DW01 screen in MCS, enter the applicable relationship code from the chart above in the first four positions of the unit code to identify these cases.
- Add the appropriate code as an issue on the DW01 screen from the chart above, and enter "See RPOC" in the remarks section.
- On the RPOC screen, enter all pertinent information regarding the reconsideration or hearing request including any applicable POMS references used to make the determination (e.g., decision to allow or disallow the reconsideration or hearing request). Also include contact information for the CR and management official who approved the decision.
- Transfer the reconsideration and hearing requests to the PC.

NOTE: all reconsideration and hearing requests should be fully documented, complete, and ready for processing at the time of transfer. Enter any associated proofs into NDRED/CFRMS and Shared Processes (EVID screen).

- Send an email to the servicing PC via the designated Windsor mailbox provided above. The subject line should read "Windsor Reconsideration" or "Windsor Hearing Request". The body of the email must include the following information.
 - SSN(s) (NH, claimant, and applicant),
 - type of claim involved (aged spouse, surviving spouse, LSDP, premium surcharge rollback, etc.),
 - what types of documents were faxed into NDRED (if any),
 - action(s) needed by the PC (allow or disallow the reconsideration request), and
 - any other helpful remarks such as Congressional interest, dire need, etc.

2. Processing Center (PC) actions

- Each PC will monitor the Windsor Mailbox and WMS listings.

- Upon receipt of the email, the PC will establish the ACR with the TOEL "RECON WINDSOR" and route the actions to the designated centralized processing unit.
- PC centralized unit will review the case before processing and sending the appropriate notice

H. References

- GN 00204.010 Protective Filing
- GN 00210.002 Same-Sex Marriage - Determining Marital Status for Title II and Medicare Benefits
- GN 00210.003 Same-Sex Marriage - Dates States Permitted or Recognized Same-Sex Marriage
- GN 00210.005 Holding Claims, Appeals, and Post-Entitlement Actions Involving Same-Sex Marriages or Legal Same-Sex Relationships other than Marriage
- RS 00207.001 Widow(er)'s Benefits Definitions and Requirements
- RS 00207.003 How Marriage Affects Widow(er)'s Benefits
- RS 00207.004 Widow(er)'s Benefits - Table of Proofs and Development - Policy
- RS 00207.020 Health Insurance (HI) for Disabled Widow(er)s
- DI 10110.001 Requirements for Disabled Widow(er)'s Benefits (DWB)

To Link to this section - Use this URL:

<http://policy.ssa.gov/poms.nsf/lnx/0200210400>

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