

Social Security

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TN 11 (06-14)

GN 00210.004 Non-Marital Legal Relationships (Such as Civil Unions and Domestic Partnerships)

Social Security Act 42 USC 216(h)(1)(A)(ii); 20 CFR 404.345

A. Introduction

This section describes the procedure for determining that:

- a non-marital legal relationship (such as a civil union, domestic partnership, or reciprocal beneficiary relationship) can be treated as a marital relationship for purposes of determining entitlement to benefits; and
- a non-marital legal relationship meets the duration of marital relationship requirement.

The Social Security Act allows us to consider the claimant to be the number holder (NH)'s spouse for benefit purposes if the state of the NH's domicile would allow the claimant to inherit a spouse's share of the NH's personal property if the NH died without leaving a will. Under these circumstances, we will treat the couple's relationship as a marital relationship.

NOTE: For concurrent claims, refer to GN 00210.800 for development of marital status for Supplemental Security Income.

In addition to establishing the non-marital legal relationship, the claimant must meet all other entitlement factors for the type of benefit claimed.

IMPORTANT: You should now review any pending claims and appeals on hold due to an allegation of a non-marital legal relationship for possible processing.

B. Determining that the non-marital legal relationship is recognized for benefit purposes

To determine whether a claimant is considered married for benefit purposes, you must determine that the non-marital legal relationship:

- was valid in the place it was established, and
- qualifies as a marital relationship using the laws of the state of the NH's domicile.

1. Determining that the non-marital legal relationship was valid in the state in which it was established.

Use these steps to establish the validity of the relationship using the laws of the state (as described in GN 00305.001B.1.) in which the relationship was established.

Step	Action
1	<p>Is the applicant alleging a non-marital legal relationship as the basis for entitlement to a benefit?</p> <p>If yes, code the NMAR and BMAR screens with code "3-Other ceremonial," and go to step 2.</p> <p>If no, do not apply these instructions to determine the relationship. Refer to GN 00210.002 for policy related to establishing marital relationships with the NH.</p>
2	<p>Consult the chart in GN 00210.004D. Was the relationship established in a state listed under the column "State?"</p> <p>If yes, got to step 3.</p> <p>If no, the relationship is not recognized for purposes of determining benefits. Process the claim according to the appropriate instructions in GN 00210.000 for the claim type.</p>
3	<p>According to the chart in GN 00210.004D, is the type of relationship listed under the column "Relationship Type" for the state in which it was established?</p> <p>If yes, got to step 4.</p> <p>If no, treat the claimant as unmarried for benefit purposes.</p>
4	<p>According to the chart in GN 00210.004D, was the relationship established within the period shown in the column "Effective Date?"</p> <p>If yes, go to step 5.</p> <p>If no, or if no effective date is listed, treat the claimant as unmarried for benefit purposes.</p>
5	<p>Obtain evidence of the non-marital legal relationship as shown in the "Development"</p>

column and proceed to GN 00210.004B.2.

NOTE: If the claimant is unable to provide evidence of the relationship, develop according to GN 00301.180 (Identifying Claimants Who May Need Assistance) and GN 01010.410 (Failure to Submit Essential Evidence).

2. Determining that the non-marital legal relationship qualifies as a marital relationship using the laws of the state of the NH's domicile

We will determine whether the non-marital legal relationship qualifies as a marital relationship using the intestacy laws of the state of the NH's domicile. If, under such law, a claimant could inherit a spouse's share of the NH's personal property if the NH died without leaving a will, we will treat the couple's relationship as a marital relationship for purposes of determining entitlement to benefits. Use the NH's domicile at the time of the application or while the application was pending, or at the time of the NH's death.

Document the place of domicile (city or town, and state) on the RPOC screen. MCS screens do not capture the domicile of the NH. Do not rely on the mailing address or the "place of death" entry on the DECD screen.

Step	Action
1	Is the NH alive? If yes, go to step 2. If no, go to step 3.
2	Is the NH domiciled in the same state in which the relationship was established: <ul style="list-style-type: none"> • When the claimant filed the application; or • At any time during which the claim was pending a final determination? If yes, go to step 4. If no, go to step 5.
3	At the time of his or death, was the NH domiciled in the same state in which the relationship was established? If yes, go to step 4. If no, go to step 5.
4	According to the chart in GN 00210.004D, does the state in which the relationship was established show a YES in the column "Inheritance Rights?" If yes, proceed to GN 00210.004C. If no, treat the claimant as unmarried for benefit purposes.

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| 5 | Refer the claim for a legal opinion on the validity of the relationship using instructions in GN 01010.815. |
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C. Determining duration of the relationship for title 2 and Medicare claims

An applicant for spouse's benefits must meet a one-year duration-of-marriage requirement. See RS 00202.001. An applicant for surviving spouse benefits must meet a nine-month duration-of-marriage requirement. See GN 00305.100. However, some alternatives and exceptions to the duration requirement exist.

IMPORTANT: If the claimant alleges that

- the relationship began as a non-marital legal relationship that later converted to a marriage, or
- he or she had more than one non-marital legal relationship with the NH, or
- he or she had a combination of one or more non-marital legal relationships and marriages to the NH, which may, in total, meet the duration of marriage requirement,

refer the claim for a legal opinion on the duration of relationship requirement using the instructions in GN 01010.815. See example for determining the duration of the relationship for title II and Medicare claims involving cases of combined or converted relationships in GN 00210.004.E.3.

Step	Action
1	Is the NH alive? If yes , go to step 2. If no , go to step 3.
2	Proceed according to GN 00210.100B, steps 2-7 to determine if the claimant meets the duration of marriage requirement or an alternative requirement.
3	Proceed according to GN 00210.400B, steps 3-7 to determine if the claimant meets the duration of marriage requirement or an exception to the requirement.

D. State chart on non-marital legal relationships

Use this chart to determine whether the state has established a non-marital legal relationship that conveys spousal inheritance rights.

The "State" column lists the states that have currently, or in the past, established non-marital legal relationships. For purposes of this section, a state is defined as

- the 50 United States,
- the District of Columbia,
- the U.S. Virgin Islands,
- Puerto Rico,
- Guam,
- American Samoa, or
- the Northern Mariana Islands.

The "Inheritance Rights" column shows a "yes" or "no" as to whether the non-marital legal relationship meets our requirements for recognition as a marital relationship because it conveys spousal inheritance rights.

The "Relationship Type" column lists the only type(s) of non-marital legal relationships that the state has established.

The "Development" column describes the information needed from the claimant to establish the relationship under state law.

The "Effective Date" column shows the date the state began to permit the relationship, or the period of time during which the relationships were permitted.

State	Relationship Type	Inheritance Rights	Development	Effective Date
AZ	Domestic partnership	No	n/a	n/a
AZ	Civil union	No	n/a	n/a
CA	Domestic partnership	Yes	Request the date the domestic partnership was entered into.	Jan 1, 2005
CO	Designated beneficiary (DB)	Yes, unless specifically excluded in the DB agreement	1) Request the date the designated beneficiary agreement was signed and (2) ask if the right to inherit as each other's spouse was specifically excluded in the agreement. Accept the relationship if there is no exclusion of inheritance rights in the agreement. Do not accept the relationship if there is	Jul 1, 2009

			exclusion of inheritance rights in the agreement.	
CO	Civil union	Yes	Request the date the civil union was entered into	May 1, 2013
CT	Civil union	Yes	Request the date the civil union was entered into.	Oct 1, 2005 - Oct 1, 2010
DE	Civil union	Yes	Request the date the civil union was entered into.	Jan 1, 2012 – Jul 1, 2014
DC	Domestic partnership	Yes	Request the date the domestic partnership was registered.	Jan 26, 2006
HI	Reciprocal beneficiary (RB)	Yes	Request the date the certificate of RB was issued	Jun 1, 1997 – Dec 2, 2013
HI	Civil union	Yes	Request the date the civil union was entered into	Jan 1, 2012
IL	Civil union	Yes	Request the date the civil union was entered into.	Jun 1, 2011
ME	Domestic partnership	Yes	Request the date of the declaration of domestic partnership.	Jul 30, 2004
MD	Domestic partnership	No	n/a	n/a
MN	Domestic partnership (municipal)	No	n/a	n/a
NV	Domestic partnership	Yes	Request the date the domestic partnership was registered.	Oct 1, 2009
NH	Civil union	Yes	Request the date the civil union was entered into.	Jan 1, 2008 - Dec 31, 2009
NJ	Domestic partnership	Yes	Request the date of the affidavit of domestic partnership	Jul 10, 2004 – Feb 19, 2007
NJ	Civil union	Yes	Request the date the civil union was entered into	Feb 19, 2007

NY	Domestic Partnership	No	n/a	n/a
OR	Domestic partnership	Yes	Request the date of the certificate of domestic partnership	Feb 4, 2008
RI	Civil union	Yes	Request the date the civil union was entered into.	Jun 1, 2011 - Aug 1, 2013
VT	Civil union	Yes	Request the date the civil union was entered into	Jul 1, 2000 – Sep 1, 2009
VT	Reciprocal beneficiary	No	n/a	n/a
WA	Domestic partnership	Yes	Request the date the domestic partnership was registered.	Dec 3, 2009
WI	Domestic partnership	Yes	Request the date of the declaration of domestic partnership	Aug 3, 2009

E. Examples

1. Example for determining that the non-marital legal relationship is recognized for benefit purposes

Nicole (NH) and Penny (claimant) established a civil union in Colorado. Colorado appears in the chart in GN 00210.400D which shows "Civil Unions" as a "Relationship Type." Penny indicates that the relationship establishment date was after the "Effective Date" shown in the chart. Colorado's civil union law would allow Nicole and Penny to inherit as each other's spouse, according to the information under "Inheritance Rights" in the chart. When Penny applied for aged spouse benefits, Nicole was still domiciled in Colorado. Treat Penny and Nicole as spouses for purposes of determining entitlement.

2. Example for determining that the non-marital legal relationship is not recognized for benefit purposes

Tony (NH) and Tim (claimant) entered a domestic partnership in Rhode Island. Rhode Island appears on the chart in GN 00210.004D; however, the only type of relationship listed on the chart for Rhode Island is a "Civil Union." Treat the claimant as unmarried for benefit purposes.

3. Examples for determining duration of the relationship for Title II and Medicare claims

Beth (NH) and Rita (claimant) established a domestic partnership Washington after Washington permitted domestic partnerships. Beth died a year later. Rita indicates an establishment date after the "Effective Date" shown in the chart for Washington, and Washington's domestic partnership law would allow Beth and Rita to inherit as each other's spouse, according to the information under "Inheritance Rights" in the chart. Because at the time of her death, Beth still lived in the state in which the relationship was established, we are able to treat Rita as Beth's surviving spouse for benefit purposes.

Stewart and Rod entered a civil union in New Jersey after New Jersey permitted civil unions. Four months later, New Jersey began to permit same-sex marriage. Stewart and Rod allege that at that time, they completed the required paperwork to convert their civil union into a same-sex marriage. Six months later, Stewart died, and Rod applied for surviving spouse benefits on Stewart's record. The exception to the duration of marital relationship requirement (as set out in GN 00210.400B) is not met. Because neither the duration of the civil union, nor the duration of the marriage individually meet the duration of marital relationship requirement, we will refer this claim to the ORCC for legal opinion.

F. References

GN 00305.001 Determining Family Status
GN 00305.100 Marital Relationship Duration
GN 00210.000 Windsor Same-Sex Marriage Claims
GN 01010.815 Request for Legal Opinion

To Link to this section - Use this URL:

<http://policy.ssa.gov/poms.nsf/lnx/0200210004>

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Batch run: 06/24/2014

Rev:06/24/2014