

# Legal rights for Washington state couples as of January 2014

Prepared by Mary Sroufe  
 Principal Attorney | Ballard Elder Law  
 (206) 465-0471 | mary@BallardElderLaw.com

	<b>Unmarried and unpartnered</b>	<b>Registered domestic partners*</b>	<b>Married</b>
Medicaid	Asset limit of \$2,000.	<p>Asset Limit of \$2,000. If ill spouse dies, Medicaid will enforce lien against house, even if partner still lives in it.</p> <p>Historically, Washington has provided a hardship waiver for surviving partners in an RDP and allowed partners to transfer assets between them. It is not clear if these protections will remain after June 30, 2014.</p>	<p>Combined asset limit of \$55k** (or \$117k** in certain circumstances). Assets of either spouse count toward limit, even if separate property. Assets can be transferred between spouses without a penalty.</p> <p>Income can be assigned solely to the well spouse.</p> <p>If ill spouse dies, Medicaid will not enforce lien against house while surviving spouse lives in it.</p>
Immigration	Must meet immigration standards on non-relationship basis.	No preference over an unpartnered couple for immigration.	<p>Marriage is valid based on state of celebration, not state of residence.</p> <p>Green cards can be obtained for non-citizen spouses.</p>

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Active Military	<p>LGBT military members stationed in a non-marriage state have been granted leave to travel for marriage purposes.</p> <p>Military ID and other benefits extended to the servicemember only.</p>	<p>Military ID and other benefits extended to the servicemember only.</p>	<p>Marriage validity is determined by state of celebration, not state of residence.</p> <p>Military ID cards (and attendant benefits) available to spouses. Healthcare and other benefits of military service extended to all spouses.</p>
Retired Military/Veterans	<p>Benefits are assigned to the veteran/retiree only.</p>	<p>Benefits are assigned to the veteran/retiree only</p>	<p>Marriage validity is determined by state of residence, not state of celebration. If moving to a non-marriage state is contemplated, apply for benefits before moving.</p> <p>Tricare, survivor pensions, and Aid and Attendance are available.</p>
Federal employee pension etc.	<p>Federal benefits extend only to the federal employee or retiree.</p>	<p>Federal benefits extend only to the federal employee or retiree, not to a registered domestic partner.</p>	<p>Spouses can be added to health plan at time of marriage, or if already married, during open enrollment (usually fall).</p> <p>Open enrollment for pension do-overs (to incorporate same sex spouse) until June 26, 2015</p>

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Social Security	Social security benefits only apply to the social security number holder.	Social security benefits only apply to the social security number holder.	<p>Marriage validity determined by state of celebration AND state of residence. Date of marriage must not be before state recognized same sex marriage (December 6, 2012 in Washington)</p> <p>Married couples, no matter their gender/sex are eligible for spousal benefits.</p> <p>Children born to a same sex marriage should be presumed to be children of each spouse for social security children's benefits purposes (guidance yet to be issued).</p>
Retirement from private company	Generally, benefits extend to the retiree only (but individual companies may differ).	<p>Domestic partners are not granted any special tax treatment. Partners are not generally eligible for pension plans or retiree health plans (but an individual company may make these benefits available).</p> <p>If available, partner benefits will be subject to tax.</p>	<p>Generally marriage is valid based on state celebrated, not state of residence (IRS ruling).</p> <p>Each plan may offer do-overs for retirees who retired before September 16, 2013. (guidance yet to be issued)</p> <p>But 401(k) and IRA can now roll over to spouse, tax free earnings and deferral of withdrawals</p>

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Federal Income Taxes	Income is reported as earned by the taxpayer it was paid to only.	Income is considered separate income, though through Washington's community property laws (as apply here), income to one partner can be split and assigned to each partner.	Income will be considered marital income.  Newly recognized same sex marriages may amend prior tax returns (go back three years).  According to Washington law, the marriage date of a same sex couple is the date of the original RDP.
State Estate Taxes	No relationship based deductions beyond taxable estate threshold of \$2,000,000**.	Marital deduction available as of January 1, 2014. Transfers to surviving partner pass free of state estate taxes.	Marital deduction available. Transfers to surviving spouse pass free of state estate taxes.
Federal Estate Taxes	No relationship based deductions beyond taxable estate threshold. All transfers are taxed.	No marital deduction.  All transfers to surviving partner (or other heir) are taxed, assuming estate meets federal estate tax threshold (\$5,250,000**)	Marital deduction available.  Transfers to surviving spouse pass free of federal estate taxes.  Surviving spouse may also use deceased spouse's unused gift and estate tax exclusion amount.
End of relationship	Generally, property is divided according to title and documented ownership.	Community property rules apply.	Community property rules apply
Property rights at death	All property must pass through will, trust, or intestate succession. There is no provision for a forgotten survivor.	Community property rules apply.	Community property rules apply

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Healthcare Exchange (Affordable Care Act)	Each person must purchase his or her own health insurance. Income is not pooled. Subsidies are intact.	Income of both partners is pooled, which reduces subsidies and tax credits	Income of both spouses is pooled, which reduces subsidies and tax credits

\*While most domestic partnerships automatically convert to marriages on June 30, 2014, if one member is age 62 or older, the domestic partnership will persist. If a couple with a domestic partnership and a member who is 62 or older wishes to convert their domestic partnership to a marriage, that couple will have to formally marry. If a newly formed couple where one partner is over the age of 62 wishes to form a legal commitment, that couple may select either a domestic partnership or a marriage.

\*\*These are round numbers, not exact figures. The actual threshold adjusts periodically and may be higher or lower.