



HUMAN  
RIGHTS  
CAMPAIGN®



August 17, 2001

Hon. Kay Cole James  
Director  
Office of Personnel Management  
Theodore Roosevelt Federal Building  
1900 E Street, NW  
Washington DC 20415

Dear Director James:

Congratulations on your recent confirmation as Director of the Office of Personnel Management. On behalf of the Human Rights Campaign and the Federal Gay, Lesbian, Bisexual and Transgendered Employees Organization (GLOBE), we write to welcome you and express our desire to work closely with you on matters of importance to all federal employees, including those whom are gay or lesbian.

We also write today to raise an issue that is a significant one for all federal employees: long-term care insurance. We are pleased that, through a bipartisan effort, the Congress passed, and the President signed into law, the Long-Term Care Security Act (PL 106-265). As you know, this legislation creates a program that allows federal employees to purchase long-term care insurance for themselves and their family members. This new program will provide a vital financial-planning resource for Federal employees and we applaud its creation. We would like to call your attention to one aspect of the proposed long-term care insurance program that is specific to the gay and lesbian community: domestic partner coverage.

Many gay and lesbian individuals are in committed, long-term relationships and are financially interdependent with their life partners. Gay men and lesbians face the unique challenge of not being eligible for certain employee benefits enjoyed by their heterosexual counterparts because they cannot legally marry. The private sector has begun to recognize and correct this disparity. In fact, over 4,000 companies nationwide, including over 140 of the Fortune 500 have implemented benefit programs that provide domestic partner coverage. The Federal government has not yet taken this step. Because of this, unlike their married counterparts, gay and lesbian employees do not have access to coverage through FEHBP for their domestic partners. This lack of access to health care places both the employee and their partner at increased risk for unmanaged health problems and financial hardship.

The Long-Term Care Security Act, however, provides the authority for the federal government to take a moderate step toward providing health care coverage for all Federal employees and their families. The authorizing legislation for the long-term care insurance program contains language that defers to OPM to design a program that is inclusive of *all* family structures. Section 9001 5 (D) states that in addition to spouses, parents, step-parents, parents-in-law and children, the term "eligible relative" is also defined as

*“[A]n individual having such other relationship.... [A]s the Office may by regulation prescribe.”* Under this statute, OPM has the authority to write the implementing regulations and select the insurance carriers for this new program in such a way as to be inclusive of the domestic partners of the employees in its purview. We strongly encourage you to do so, and thus not needlessly eliminate the family members of any federal employees from this vital program. The full cost of any long-term care insurance premiums that federal employees elect to purchase are paid by the employee. Consequently, any extension of coverage to the unmarried partners of such employees will result in negligible cost to the federal government.

We applaud OPM’s recognition of diverse family structures that appears on their website in the proposed product design for the new LTC program: *“The Government needs a talented and diverse workforce... As part of the Government’s overall compensation package, the long term care program needs to address the needs of these individuals.”* We could not agree more, and further support OPM’s statement in the 7/3/2001 Q&A’s on the RFP that *“our desire is to afford coverage to those in the Federal Family and those who are relatives of that family and will have an impact on the federal employee; i.e. detract from productivity due to stress, distraction or absence from work.”* It is important to note that gay and lesbian federal employees experience the same levels of stress, lack of productivity, absence, and distraction as do other employees when their family members, including their domestic partners, become ill and must be hospitalized or cared for by others.

We are concerned, however, that despite the positive statements referenced above, that in the same document OPM contradicts itself on the issue of coverage for domestic partners. On page 12, in response to a potential carrier’s query, OPM states that it *“has not been determined”* whether or not domestic partners will be included under the definition of eligible relative. Yet on page 41, OPM states in response to another question about eligible relatives that *“at this time, we are not contemplating adding any other additional groups beyond the ones we identified in the RFP on Page C-6.”* This list, while including such diverse relatives (many of whom are covered by NO other Federal employee benefit programs) of the covered employee as adult children, spouses of adult children, unmarried brothers and sisters, parents-in-law and former spouses, does not include domestic partners of federal employees.

As you move forward with selecting the carriers and drafting the regulations for this new long-term care insurance program, we urge you to keep OPM’s stated desires to service a talented and diverse workforce and to cut down on stress and absenteeism in mind and thus ensure that this new program is inclusive of the domestic partners of Federal employees. Doing so merely represents equity in benefits for *all* employees, nothing more and nothing less.

In an era where Fortune 500 companies compete for the same talent as the federal government and traditionally offer higher pay than the federal government and include expanded family coverage as part of their overall compensation and benefits package, the federal government can afford to do no less. As you state in your proposed product design *“this means the policy must stay contemporary with the best policies offered by other employers.”* Not only is this a matter of fairness, it is a business necessity.

Thank you in advance for your attention to this matter. If you have any questions or require any additional information on this issue, please contact Barbara Menard of the Human Rights Campaign staff at 202-628-4160 or Federal GLOBE Board member Kitti Durham at 202-262-3413.

Sincerely,

Winnie Stachelberg  
Political Director  
Human Rights Campaign

Kitti Durham  
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Federal GLOBE