

Rules and Regulations

Federal Register

Vol. 75, No. 104

Tuesday, June 1, 2010

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 875

RIN 3206-AL92

Federal Long Term Care Insurance Program: Eligibility Changes

AGENCY: U.S. Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The U.S. Office of Personnel Management (OPM) is issuing a final regulation to expand eligibility to apply for coverage under the Federal Long Term Care Insurance Program (FLTCIP). Under this regulation, the definition of "qualified relative" is expanded to cover the same-sex domestic partners of eligible Federal and U.S. Postal Service employees and annuitants.

DATES: Effective July 1, 2010.

FOR FURTHER INFORMATION CONTACT: John Cutler, at john.cutler@opm.gov or (202) 606-0004.

SUPPLEMENTARY INFORMATION: The President's Memorandum of June 17, 2009, on Federal Benefits and Non-Discrimination requested that the Office of Personnel Management (OPM) extend certain benefits that can be provided to same-sex domestic partners of Federal employees consistent with Federal law. On September 14, 2009, OPM published proposed regulations in the **Federal Register** (74 FR 46937-46938) to expand eligibility to apply for coverage under the Federal Long Term Care Insurance Program (FLTCIP). Comments were requested by November 13, 2009. After reviewing the comments received, OPM has decided to release this final regulation without any changes from the proposed regulation. Therefore, the regulation will expand the term "qualified relative" found in 5 U.S.C. 9001(5)(D) to include additional individuals who are same-sex domestic

partners of a Federal or U.S. Postal Service employee or annuitant. Prior to this regulation, a "qualified relative" included a spouse, parent, stepparent, parent-in-law, and adult child at least age 18.

OPM received 51 comments on our proposal to extend benefit eligibility to same-sex domestic partners, with the comments running about 3 to 1 in favor of such a change. A number of comments asked that opposite-sex domestic partners be included. However, as stated in the proposed regulation, opposite-sex domestic partners were not included because they may obtain eligibility to apply for Federal long term care insurance through marriage, an option not currently available to same-sex domestic partners.

Some comments suggested a clarification of the documentation that OPM will require to verify the domestic partner status. The documentation will consist of an attestation that the domestic partners meet the criteria in § 875.213(b). OPM does not expect to establish more rigorous criteria for the attestation as that would impose a greater burden on domestic partners than other qualified relatives. For instance, we do not require documentation such as bank statements or other proof of financial support for spousal coverage.

We received some comments suggesting that we add a requirement for a "common residence." Again, the documentation will consist of an attestation that the domestic partners meet the criteria in § 875.213(b). OPM does not want to establish more rigorous criteria for the attestation as that would impose a greater burden on domestic partners than other qualified relatives. We do not expect to require other documentation or to impose other tests or requirements in order to apply, enroll (if approved for coverage), or maintain coverage.

Other commenters who addressed the documentation requirements requested clarity as to how the attestation would be created and where it would be maintained. Two comments stated a preference for the documentation to be kept by OPM. We believe the employing agency or retirement system is the appropriate place for such documentation because the agency/retirement system serves as the

personnel office for its employees/annuitants. OPM does not maintain employment records for employees other than for its own agency employees. OPM will supply an attestation document on its website for the use of employees, retirees, and their same-sex domestic partners. OPM does not intend to publish the document for comment since the attestation requirements have already been made available through the regulation.

There was a suggestion in some comments that OPM not require documentation of a same-sex domestic partnership for individuals in states where same-sex marriage or creation of a similar relationship, such as a civil union, is permitted. However, because of the variation from state to state, OPM has chosen a uniform set of criteria that all eligible employees, retirees, and their same-sex domestic partners must meet regardless of the state they reside in. Therefore, in order to be eligible to apply for Federal long term care insurance as qualified relatives, domestic partners must meet the standards provided in § 875.213(b), including the attestation requirement.

Finally, there were some comments requesting that coverage be extended to other family members, specifically parents of the domestic partner. We do not intend to extend benefits to other individuals at this time.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation only adds an additional group to the list of groups eligible to apply for coverage under the FLTCIP. The FLTCIP is a voluntary, self-pay benefits program with no Government contribution.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

Federalism

We have examined this rule in accordance with Executive Order 13132, Federalism, and have determined that this rule will not have any negative impact on the rights, roles and responsibilities of State, local or tribal governments.

List of Subjects in 5 CFR Part 875

Administrative practices and procedures, Employee benefit plans, Government contracts, Government employees, Health insurance, Military personnel, Organization and functions, Retirement.

U.S. Office of Personnel Management.

John Berry,
Director.

■ Accordingly, OPM amends 5 CFR part 875, as follows:

PART 875—FEDERAL LONG TERM CARE INSURANCE PROGRAM

■ 1. The authority citation for 5 CFR part 875 continues to read as follows:

Authority: Authority: 5 U.S.C. 9008.

■ 2. Add a new § 875.213 to subpart B to read as follows:

§ 875.213 May I apply as a qualified relative if I am the domestic partner of an employee or annuitant?

(a) You may apply for coverage as a qualified relative if you are a domestic partner, as described in paragraph (b) of this section. As prescribed by OPM, you will be required to provide documentation to demonstrate that you meet these requirements.

(b) For purposes of this part, the term “domestic partner” is a person in a domestic partnership with an employee or annuitant of the same sex. The term “domestic partnership” is defined as a committed relationship between two adults, of the same sex, in which the partners—

- (1) Are each other’s sole domestic partner and intend to remain so indefinitely;
- (2) Have a common residence, and intend to continue the arrangement indefinitely;
- (3) Are at least 18 years of age and mentally competent to consent to a contract;
- (4) Share responsibility for a significant measure of each other’s financial obligations;
- (5) Are not married to anyone else;
- (6) Are not a domestic partner of anyone else;
- (7) Are not related in a way that, if they were of opposite sex, would prohibit legal marriage in the State in which they reside; and

(8) Certify that they understand that willful falsification of the documentation described in paragraph (a) of this section may lead to disciplinary action and the recovery of the cost of benefits received related to

such falsification and may constitute a criminal violation under 18 U.S.C. 1001. [FR Doc. 2010–13015 Filed 5–28–10; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA–2010–0235; Directorate Identifier 2010–CE–010–AD; Amendment 39–16311; AD 2010–11–06]

RIN 2120–AA64

Airworthiness Directives; AeroSpace Technologies of Australia Pty Ltd Models N22B, N22S, and N24A Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are superseding an existing airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

The results of full scale fatigue tests being conducted by the manufacturer have shown the need for inspection of critical fastener holes in the stub wing upper front spar cap, near the wing strut attachment.

We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective July 6, 2010.

On July 6, 2010, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

ADDRESSES: You may examine the AD docket on the Internet at <http://www.regulations.gov> or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; e-mail: doug.rudolph@faa.gov.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on March 9, 2010 (75 FR 10694), and proposed to supersede AD 97–11–12, Amendment 39–10041 (62 FR 28997, May 29, 1997). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

The results of full scale fatigue tests being conducted by the manufacturer have shown the need for inspection of critical fastener holes in the stub wing upper front spar cap, near the wing strut attachment.

Amendment 1 adopts the manufacturer’s latest service bulletin. Its new inspection method avoids having to remove the Huck bolts and the potential to damage the holes.

You may obtain further information by examining the MCAI in the AD docket.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have required different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a Note within the AD.

Costs of Compliance

We estimate that this AD will affect 25 products of U.S. registry. We also estimate that it will take about 2 work-hours per product to comply with the basic requirements of this AD. The average labor rate is \$85 per work-hour.

Based on these figures, we estimate the cost of this AD on U.S. operators to be \$4,250, or \$170 per product.

In addition, we estimate that any necessary follow-on actions will take