GN 00210.005 Same-Sex Marriage or Non-marital Legal Relationship- Holding Certain Claims, Appeals, Post-Eligibility Actions, and Post-Entitlement Actions

A. When to hold claims, appeals, post-eligibility actions, and post-entitlement actions involving same-sex marriages or non-marital legal relationships

On June 26, 2013, the U.S. Supreme Court issued the Windsor decision regarding the recognition of same-sex marriages for purposes of determining benefits. We now adjudicate many actions affected by Windsor, and we continue to publish new instructions as they become available. However, we must continue to take and hold certain claims, appeals, post-eligibility, and post-entitlement actions.

Follow GN 00210.000 to determine whether there are instructions to process the claim type. If we have not yet issued instructions to process the type of claim, appeal, or post-entitlement action, or if the existing instructions direct you to hold the claim, follow the procedures set out in GN 00210.005B.

B. Field office (FO) and workload support unit (WSU) instructions for holding claims and other actions involving same-sex marriages or non-marital legal relationships

Determine the adjudicative level of the case.

- If this case is an initial claim (including auxiliary claims, survivor claims, supplemental security income (SSI) claims, and title II benefit claims restricted to "Medicare-only"), go to GN 00210.005B.1.
- If the case is a reconsideration request, go to GN 00210.005B.2.
- If the case is a hearing request, go to GN 00210.005B.3.
- If the case is a post-eligibility or post-entitlement action, go to GN 00210.005B.4

1. Holding initial claims involving same-sex marriages or non-marital legal relationships

Step	Action
1	Consult GN 00210.000. Have we published instructions for this type of claim or action, when the case involves a same sex marriage? If yes, process the case under existing instructions in GN 00210.000. If no, go to step 2.
2	Do the instructions call for you to hold the claim? If yes, go to step 3. If no, process the case under existing instructions in GN 00210.000.
3	Establish the claim on MCS/MSSICS.

	Go to step 4.
4	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.

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

	Go to step 5.
5	Develop all factors of entitlement other than those factors of entitlement or eligibility related to the same-sex marriage or non-marital legal relationship. Go to step 6.
6	Are all other factors of entitlement or eligibility met, other than the determination about the same-sex marriage or non-marital legal relationship? If yes, go to step 7. If no, process the claim as a denial, using existing procedures.
7	Does the claim require a medical determination? If yes, go to step 8. If no, go to step 10.
8	Transfer the claim to DDS for a medical determination. For a title II claim, follow the instructions for "non-medical completion exclusions," as set out in DI 11010.115. Go to step 9.
9	Is the DDS determination a medical denial? If yes, process the claim as a denial, using existing procedures. If no, go to step 10.
10	TICKLE the claim for 60 days. Refer to GN 00210.000 to check if there are new instructions to process the claim. Do not process the claim as an allowance or denial until appropriate instructions are available.

2. Holding reconsideration requests at the field office, when they involve same-sex marriages or non-marital legal relationships

Step	Action
1	Consult GN 00210.000. Do the existing instructions call for you to hold the claim? If yes, go to step 2. If no, do not apply these instructions. Process the case under existing instructions in GN 00210.000.
2	Establish the appeal on MCS/MSSICS.

	If the MCS segment is archived, reload and manually clear an initial claim in order to load the appeal.
	If the MSSICS iteration is archived, follow the two-day process in DI 81010.145C.
	Go to step 3.
3	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.

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	Go to step 4.
4	Receipt the reconsideration and attestation issues with the appropriate dates.
	Add an issue on the DW01 screen with the appropriate code as shown in step 2, and set the TICKLE date for 60 days.
	TICKLE the RCNDEC for 60 days.
	Go to step 5.
5	Give the claimant the document processing system (DPS) reconsideration acknowledgement notice or a date-stamped copy of the appeal request.
	Go to step 6.
6	Retain jurisdiction of the appeal in the FO. DO NOT TRANSFER to the PC. TICKLE the reconsideration request for 60 days. Refer to GN 00210.000 to check if there are new instructions to process the appeal. Do not process the appeal until appropriate instructions are available.

3. Transferring hearing requests to the Office of Disability Adjudication and Review (ODAR) or to the Office of Medicare Hearings and Appeals (OMHA), when they involve same-sex marriages or non-marital legal relationships

Step	Action
1	Consult GN 00210.000. Have we published instructions for this type of claim or action, when the case involves a same sex marriage or non-marital legal relationship?
	If yes, process the hearing request using existing instructions.
	If no, go to step 2.
2	Does the hearing request concern a reconsidered determination on Medicare (non-disability issue involving Part A (hospital insurance) or Part B (medical insurance) determination)?

	If yes, process the hearing request according to instructions in GN 03101.150, forwarding the request to OMHA. If no, go to step 3.
3	Does the hearing request concern a reconsidered determination regarding a beneficiary's Income-Related Monthly Adjustment Amount (IRMAA)? If yes, process the hearing request according to instructions in HI 01140.010, forwarding the request to OMHA. If no, go to step 4.
4	Follow instructions in EM-11043 SEN REV4 to prepare and transfer the file to the servicing: • ODAR office (concurrent or title XVI claim); or • PC (title II claim). Annotate the 501 Case Flag with "Special Case Processing - United States v. Windsor." ODAR will hold or process hearing requests received from the FO or PC according to instructions in the Hearings, Appeals, and Litigation Law manual (HALLEX).

4. Holding post-entitlement and post-eligibility (PE) actions in the FO or the PC

Step	Action
1.	Consult GN 00210.000. Have we published instructions for this type of action, when the case involves a same sex marriage? If yes, process the case under existing instructions in GN 00210.000. If no, go to step 2.
2	Do you work in a processing center (PC) or a field office (FO)? If you work in a PC, follow local procedure to hold the post-entitlement action. If you work in an FO, go to step 3.
3	• Set up a modernized development worksheet (MDW), entering the beneficiary or claimant's name, SSN, XREF SSN, and contact information; • On the MDW, enter as the first four positions of the unit the type code that corresponds to the status alleged by the claimant. Retain this as the unit code, regardless of the outcome of the PE action.

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• Record information about the PE action requested in the MISC field;
• Enter "WINDSOR" in the Issue field;
• Enter "626PE" in the Category field; and

	• Record any other pertinent information on the Remarks screen. Go to step 5.
5	TICKLE the MDW issue for 60 days. Refer to GN 00210.000 to check if there are new instructions to process the action. Do not process the action until appropriate instructions are available. Do NOT delete the MDW.

C. Internal inquiries
Direct all program–related and technical questions to your RO or PSC OA support staff, who may refer questions or concerns to their central office contacts.

D. References
- GN 00210.002 Same-Sex Marriage - Determining Marital Status for Title II and Medicare Benefits
- GN 00210.004 Non-Marital Legal Relationships (Such as Civil Unions and Domestic Partnerships)
- MSOM MDW 001.002 Modern Development Menu (MMEN)
- MSOM INTRANETMAPS 006.002 MAPS Development Worksheet Main (DWMP)

EM-11043 SEN REV3 New Procedures and Tools for Developing Non-Medical Hearing Cases