

## **GN 00210.006 Same-Sex Marriages Celebrated in Foreign Jurisdictions**

### **A. Introduction**

Because of the **Windsor** decision, we are now able to process some claims and appeals involving foreign same-sex marriages. A foreign marriage is a ceremonial marriage that was celebrated somewhere other than in a state. For the purposes of determining marital status, states are 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.

This section provides instructions for obtaining a legal opinion on the validity of the foreign same-sex marriage. If the claimant alleges a foreign, same-sex legal relationship other than marriage, hold the claim as set out in [GN 00210.005](#). If the NH is domiciled in a state that does not recognize same-sex marriage (per the chart in [GN 00210.100B.1.](#)), hold the claim as set out in [GN 00210.005](#).

### **B. Policy on determining need for legal opinion on foreign same-sex marriage**

We look to the Number Holder's (NH's) domicile to determine the validity of a marriage. If the NH is alive, we look to the NH's domicile at the time of application or while the claim is pending a final determination. If the NH has died, we look to the NH's domicile at the time of her or his death.

- 1 If the NH's domicile is a state (i.e., domestic domicile), we will determine if the courts in that state would recognize the foreign same-sex marriage as valid. Refer the claim for a legal opinion as explained in [GN 00210.006C](#) in this section.
- 2 If the NH's domicile is foreign, we will determine if the courts in the District of Columbia would recognize the foreign same-sex marriage as valid.

**NOTE:** The field office that is responsible for the claim will also be responsible for requesting the legal opinion and processing actions based on the legal opinion.

### **C. Obtaining a legal opinion on the validity of a foreign same-sex marriage**

Refer the claim for a Regional Chief Counsel (RCC) opinion on the validity of the marriage, following the instructions in GN 01010.815. The Regional Office will refer the claim for legal opinion on the validity of the marriage, following instructions in GN 01010.820.

#### **D. Examples for when to request a legal opinion on the validity of a foreign same-sex marriage**

- Paul and William marry in Sweden. Paul files for husband's benefits on William's record while William is domiciled in Massachusetts. We determine Paul meets all other eligibility factors. Refer the claim for an RCC opinion on the validity of the Swedish marriage under Massachusetts law, using instructions in GN 01010.815.
- Paul and William marry in Brazil. Paul files for husband's benefits on William's record while William is domiciled in Brazil. We determine Paul meets all other eligibility factors. Refer the claim for a legal opinion on the validity of the Brazilian marriage under the law of the District of Columbia, using instructions in GN 01010.815.

#### **E. Actions after you have obtained a legal opinion about validity of foreign same-sex marriage**

Once you obtain a legal opinion about marriage validity, process the claim per instructions in GN 00210.000. If we do not have published policy for the claim type, hold the claim as set out in [GN 00210.005](#).

#### **F. References**

GN 00210.000 Windsor Same-Sex Marriage Claims – Table of Contents

[GN 00210.005](#) Holding Claims, Appeals, and Post-Entitlement Actions Involving Same-Sex Marriages or Legal Same-Sex Relationships other than Marriage

GN 00305.001 Determining Family Status

GN 01010.255 Adjudication of Foreign Claims

GN 01010.815 Request for Legal Opinion

GN 01010.820 Assistant Regional Commissioner (ARC), Management, Operations and Support (MOS) Action on Request for Legal Opinion