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Judge Says Couple Must Marry To Get Health Insurance



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Organization for Unmarried People Condemns Decision

The Alternatives to Marriage Project (AtMP), a national organization of people who choose not to marry or are unable to get married, condemns today's court decision allowing employers to discriminate against opposite-sex couples in their benefits plans.

The case, Foray v. Bell Atlantic, concerned a male Bell Atlantic employee with a female domestic partner. Although Bell Atlantic provides health and other benefits to employees' spouses and same-sex domestic partners, it refused to provide equal benefits to Paul Foray. In May 1998, he sued Bell Atlantic in federal court, claiming that the company's policy discriminated on the basis of sex. If he were a woman instead of a man, his lawsuit claimed, his partner would have been eligible to receive benefits.

A decision released today by United States District Court Judge Robert P. Patterson dismissed the case, ruling that an employer may use a sexist definition of "domestic partner." He said that Bell Atlantic's policy does not violate federal civil rights laws because Foray and his partner have the option of getting married.

"This is a stunning setback for unmarried people," says AtMP co-founder Dorian Solot. "I'm outraged that a judge could consider this case and say he doesn't consider this discrimination."

Marshall Miller, AtMP's co-founder, agrees. "Apparently Bell Atlantic and the U.S. District Court do not believe in equal pay for equal work," he says. "Perhaps, following the court's logic, Bell Atlantic should cut off the phone service of all unmarried male-female couples. There's no reason why Bell Atlantic should have to provide phone service when these couples have the option of getting married." To continue down this path, he says, if unmarried people are denied benefits today, they could lose their housing tomorrow (when landlords refuse to rent to them), and later other rights regardless of what each has to do with marital status.

The supporters of the Alternatives to Marriage Project, like millions of unmarried people around the country, are not married for a wide variety of reasons, according to Solot and Miller. One thing they share, the organization says, is a belief that marriage is a personal decision.

"This case was about a workplace issue," Solot says. "Paul Foray and his partner are willing to sign the same affidavit that same-sex partners sign, indicating the serious, committed nature of their relationship. There is no reason why he should be held to a different standard than other employees with domestic partners."

Thomas Coleman, executive director of the American Association for Single People, points out that requiring opposite-sex couples to get married instead of being able to sign the affidavit that same-sex couples can sign creates an additional burden on opposite-sex couples. An opposite-sex couple must get a marriage license, pay a fee, often have blood tests, and go to court for a divorce. An equivalent same-sex couple need only sign an affidavit. Coleman says, "The court did not bother to address the argument that had Foray been a female with a female domestic partner, rather than a male with a female partner, he could have received benefits with fewer burdens imposed."

Solot confirms that many supporters of AtMP had to get married simply because they needed health insurance. "If Paul Foray's partner needs health insurance, they will be forced to get married, too," she says. "This is a ludicrous system we're creating. It's not the boss's job or a judge's job to tell an employee how he has to form his family, or to punish him for his choice."

Rapidly-growing numbers of employers are offering domestic partner benefits to their employees in

order to remain competitive. Most of these offer the benefits to both same-sex and opposite-sex domestic partners. Since benefits make up about 40% of the average employee's total work compensation, employers are beginning to realize that employees who do not receive benefits due to their marital status or sexual orientation have traditionally been at a significant disadvantage. The cost increase to implement non-sexist domestic partner plans averages about 1%, far too low for cost to be a prohibitive factor.

Regardless of the judge's decision, Miller and Solot believe Bell Atlantic may ultimately be hurting itself. "In today's diverse workplace, Bell Atlantic is sending a clear message that unmarried employees aren't welcome there," Solot says. "And that's worrisome given how many of the company's peers, like Pacific Bell, have sought to respect and support all families with non-sexist benefits packages."



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P.O. Box 320151 | Brooklyn NY 11232 | Tel: 718-788-1911

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