

**Statement of Frank A. Hartigan**

**Domestic Partner Benefits for Federal Employees: Fair Policy and Good Business**

**U.S. Senate Committee on Homeland Security and Governmental Affairs**

**September 24, 2008**

**342 Dirksen Senate Office Building**

Chairman Lieberman, Ranking Member Collins, and members of the Committee.

I appreciate the opportunity to testify in favor of domestic partner benefits for federal employees.

My name is Frank Hartigan and I am an executive manager at the Federal Deposit Insurance Corporation (FDIC). I have worked for the FDIC for 24 years and have advanced through the ranks, starting as a bank examiner trainee and progressing to my current position as Deputy Regional Director of the Division of Supervision and Consumer Protection's San Francisco Office.

I am here to tell you about my experience and unique perspective as a gay executive in the federal government. I am testifying on my own behalf. I am not speaking for the FDIC. In preparing for this hearing, I reached out to many of my colleagues and asked them how the lack of domestic partner benefits has impacted their lives and careers. I have incorporated some of their responses throughout my remarks.

The lack of domestic partner benefits is a fairness issue and negatively impacts employees during their entire careers and into retirement. The lack of domestic partner benefits is in direct contradiction of equal employment opportunity policies and best practices for workplace fairness.

Gay and lesbian government employees have to deal with inequities in the workplace every day when it comes to benefits. They face financial and emotional hardships when their partner does not have adequate health, dental, and vision insurance. They often feel at a disadvantage when applying for other federal jobs or advancement opportunities that involve relocation, as relocation benefits are not the same for employees in domestic partnerships as they are for heterosexual married employees. Finally, gay and lesbian employees know that they are disadvantaged when they compare their retirement benefits to their co-workers.

Some federal agencies, like the federal banking regulators, have recognized these inequities and have implemented limited forms of domestic partner benefits. I am proud to say that the FDIC, under the leadership of Chairman Sheila C. Bair, is also beginning to do the same. While this is a step in the right direction, these attempts to equalize benefits fall short of achieving actual equality. In plain words, the total compensation package for gay and lesbian federal employees is not equal to that of their co-workers in the very same jobs.

## **Attracting and Retaining Employees**

Young gay and lesbian individuals certainly consider domestic partner benefits when deciding between potential jobs and employers. They are much more enlightened to the issue of domestic partner benefits than I was when I entered the federal workforce. They consider which employers offer domestic partnership benefits and which do not. In retrospect, I have asked myself, if I were just starting out in today's job market, would I take a job with the federal government knowing what I now know about domestic partner benefits? I believe I would look elsewhere.

The lack of domestic partner benefits puts the government at a distinct disadvantage when trying to attract and retain a qualified workforce. More than half of Fortune 500 companies and almost 10,000 other companies provide benefits to domestic partners. Also, many state and local governments and colleges and universities provide benefits to domestic partners of their employees.

Being competitive in attracting new talent is especially important when you look at the number of people eligible to retire in the coming years. The U.S. Office of Personnel Management's (OPM) Workforce Information and Planning group has predicted future retirement probabilities from 2007 through 2016 for federal employees. OPM predicts that nearly 61 percent of full-time permanent employees on-board as of October 1, 2006, will be eligible to retire by 2016.<sup>1</sup> Given this large loss of talent, the

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<sup>1</sup> *An Analysis of Federal Employee Retirement Data: Predicting Future Retirements and Examining Factors Relevant to Retiring from the Federal Service*, prepared by the Office of Personnel Management's Division of Strategic Human

federal government will need to ensure that it is viewed as an employer of choice by prospective employees.

Potential new employees consider domestic partner benefits not only as part of a total compensation package, but they also look at them as an indication of a fair and respectful workplace culture. The federal government should strive to ensure that all of its public servants receive fair and equitable treatment. Rights and benefits should be awarded to all employees equally. The Domestic Partnership Benefits and Obligations Act of 2007 will help to correct these inequities.

### **Health, Vision, Dental and Life Insurance**

Perhaps the most obvious and ongoing disparity in employee benefits is in insurance coverages offered to family members of federal employees. Domestic partners of gay and lesbian employees cannot be covered by federal health insurance programs. This is also true for vision, dental and life insurance coverage. This lack of insurance can cost the employee's family a great deal of money.

One of my colleagues has a domestic partner who is self employed. He has worked for the government for nearly 28 years and is in a long-term relationship. He and his partner are raising three adopted children. Since the employee cannot provide health insurance to his partner under "family" coverage, they are paying roughly \$740.00 per

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Resources Policy, the Center for Workforce Information and Systems Requirements, and the Workforce Information and Planning Group, March 2008, pg. 4.

month for the partner to be covered by Blue Cross Blue Shield. That is roughly \$8,880.00 per year and \$100,000.00 over the span of their relationship. Moreover, the quality of the insurance coverage that they have to pay for separately is less than desirable in comparison to Federal Employees Health Benefits (FEHB) plans. It carries high deductibles and premiums that are an additional burden to their monthly family budget.

His partner needed two surgeries that required significant out-of-pocket expenses. They are now postponing further needed surgery because they simply cannot afford it. My colleague told me, "If my partner were covered under my plan there would be nothing to consider." He would not be forced to delay needed healthcare. All this comes at the time when they are funding private school educations for three children; two of whom will be college bound within three years.

Another manager recently told me about a woman who left the government for private-sector employment, specifically because of the lack of domestic partner benefits. The employee left the FDIC, taking the training and expertise that was paid for by the agency to a private-sector company that offers domestic partner benefits. The federal government lost a very smart and valuable employee in this situation.

Another colleague and his partner have been together for approximately ten years and have two adopted children. One of them wanted to stay at home with the children until they were of school age. They decided that the non-government employee would be

the “stay-at-home” dad.

Because they lacked domestic partner benefits, they had to purchase health insurance for the non-working partner on their own. They could not afford to purchase the same level of health, dental, prescription, vision, and life insurance for the partner that a married opposite-sex spouse would receive under FEHB family coverage. So, like many, they opted to purchase basic, catastrophic medical insurance with a high deductible. Basically, the policy would keep them from going bankrupt in the event that the stay-at-home partner was seriously ill or injured. The policy does not cover preventative care like routine vaccinations, physicals, or checkups.

Because of the situation, this couple lived with additional stress in their lives and incurred significant expenses. The stress stemmed from the fear that if the stay-at-home partner were to become ill, they would incur out-of-pocket expenses including a \$1,500 deductible per visit, and other medical expenses. In addition, if a medical condition warranted an expensive prescription, they would have had to pay for it entirely out-of-pocket since the insurance policy did not include prescriptions. The partner often ignored aches and pains and put off routine physical examinations. The employee told me, “The inequity of this situation gave me the feeling of being treated like a ‘second class citizen’ compared to my co-workers.”

Finally, another colleague shared her story about how the lack of dental insurance for her partner impacted them. This employee has been with the government for 25 years

and with her partner for 18 years. Her partner needed to have significant dental work while she was not working. The cost was more than \$10,000. The FDIC's family dental insurance, provided to non-gay, married employees would have paid 60 to 70 percent of those expenses.

### **Relocation Benefits**

Another area where gay and lesbian employees in domestic partnerships are treated substantially different from non-gay, married couples has to do with relocation benefits. When an employee makes a geographic move for the benefit of the organization, the FDIC reimburses them for certain allowable expenses related to the relocation. These include things like shipping household goods and personal vehicles, assistance with real estate sales and purchase expenses, and the use of a home sale program intended to assist relocating employees in selling a qualified residence at the former official station so that the employee can move more quickly to purchase a home at the new official station.

If an employee is married and has a family, the relocation benefits extend to the spouse. However, if a gay or lesbian employee owns a home with a domestic partner, only the employee's portion of the residence, household goods, and vehicles are covered. Relocation benefits are essentially cut in half.

One of my colleagues shared his story with me. This employee has been

consistently praised by his supervisors for exceptional work. He recently accepted a promotion, which required him to relocate. Virtually every relocation benefit that he received was significantly reduced as compared to what he would have received if he and his partner were a married opposite-sex couple. This potentially translates into tens of thousands of dollars that employees have to come up with out-of-pocket. This employee is lucky that he and his partner have the personal financial resources to relocate despite this significant inequity. However, this is not the case for many individuals who own a home jointly with their same-sex partner and would not be able to sell it because the FDIC-paid selling costs are prorated.

Another employee in a long-term domestic partnership told me that, in 2001, he took a significant downgrade as a result of a formal Reduction in Force. While at the lower grade level, he routinely reviewed federal career opportunities. He purposely did not apply for numerous job openings because he did not want to take the gamble with unequal relocation benefits. His family could not afford to move unless he received the same relocation package as other employees. It has taken since 2001 for this employee to find a position in which he could be promoted without relocating. There were definitely missed opportunities and salary loss during these seven years. When employees feel they should not take a job because they would not receive the same benefits as their peers, it is not equitable. It is just plain wrong.

Another colleague facing a similar situation explained to me that his partner actually offered several times to quit his job if there was a job involving relocation that

the FDIC employee strongly desired. However, given the lack of domestic partner health insurance benefits, this was never an option for them. Since the partner could not be covered by the FEHB insurance, they did not want to take the risk of the partner being unemployed and uninsured, if only for a short time during the relocation process. This employee believes he could have advanced to a higher position—benefiting both him and the FDIC—if he would have been able to take advantage of benefits awarded to other non-gay, married employees. I personally was faced with the risk of having my partner uninsured when we relocated for the benefit of the FDIC in the year 2000.

### **Retirement Benefits**

Another area where gay and lesbian federal employees are disadvantaged is in retirement benefits. Retirement benefits for federal employees with domestic partners are not equal to those provided to non-gay, married employees. A married employee with a spouse can choose to provide a survivor annuity. That same option is not available to employees with domestic partners.

One of my colleagues said it well when he said, “there is no legitimate reason related to the value of my work versus the value of a non-gay co-worker’s work that justifies this.”

And of course, the inequity in health insurance benefits extends into retirement. The insurance an employee cannot provide to a same-sex spouse or domestic partner also

cannot be provided in retirement, while the opposite-sex spouse of an employee has the right to continue health insurance coverage.

I recently attended a three day retirement benefits seminar sponsored by my agency. Throughout the three days, there was extensive talk about benefits available to the spouses of heterosexual employees and the need to “protect your spouse” in the event of the employee’s death. There was absolutely no discussion of similar benefits for my partner – because frankly, they are virtually nonexistent.

### **Presenteeism**

Next, I would like to address the issue of “presenteeism” where there is lost productivity due to employees actually showing up for work, but not being fully engaged because of other distractions. Family problems can impact any employee. However, due to the lack of domestic partner benefits, gay and lesbian employees have added stress and burden.

For instance, in all of the examples I have talked about today, the gay or lesbian government employee was under additional stress, had more distractions, and was not able to focus 100 percent on their job. Whether the employee was worrying about the health and well-being of an uninsured partner, trying to figure out how to cover the additional expense of higher insurance costs and medical expenses, feeling as if they are limited in opportunities for career advancement because of inequities in relocation

benefits, or being anxious about providing for their family in retirement, all of these things significantly affect an employee's level of presenteeism.

A colleague of mine who has been with the government for 23 years recently relocated. His partner of 18 years left his full-time position with benefits to relocate with him. This particular employee has moved several times for the agency to take positions of increasing authority and responsibility. However, during the most recent move, his partner experienced a medical crisis requiring emergency treatment and hospitalization. This occurred before the partner had found new employment and benefits. The medical bills resulting from the emergency totaled nearly \$30,000. Had the federal government offered domestic partner medical benefits, the employee would have purchased family coverage for his partner. This situation caused the employee severe mental distress at a time when he had just taken on a new and more challenging job. Needless to say, he was not able to give his all to the new position.

Perhaps the worst effect of the disparity is in how it can make the gay or lesbian employee feel about their employer, about their colleagues, and about themselves. One of my colleagues expressed it this way, "It is difficult for me to understand why I would be punished, when a married counterpart who was promoted at the same time as me, is receiving full relocation benefits." Do we really want productive government employees to feel punished?

Another career employee shared his feelings with me on this topic. He said that

he felt the federal government's lack of equal benefits most definitely has had a limiting effect on his career and caused him to resent his career choices. His partner of 21 years has a good job in the private-sector that provides compensation for full domestic partner benefits, including a gross up as needed to equalize the adverse tax implications. They analyzed the situation years ago when the FDIC employee had the opportunity to move for a promotion and realized that such a move would be too great a cost to their family.

This employee told me that he felt "effectively foreclosed from taking any job requiring relocation." Any such opportunity for him would cost much more than for others. He stated, "Initially, I was happy to make the choice of family over job, but as the years have gone by, I have grown to feel more and more unequal as co-workers have taken advantage of such opportunities and passed me on the career ladder." While it is true that there are potential sacrifices and inconveniences for any employee who relocates for work, the sacrifice and inconvenience is far greater for gay and lesbian employees and their families.

## **Conclusion**

In closing, I would like to say that today's hearing on the Domestic Partnership Benefits and Obligations Act gives many great hope. Great hope that the U.S. government recognizes and is willing to correct the grave inequities that exist by requiring departments and agencies to offer a full complement of domestic partner benefits, including medical, dental, vision, and life insurance, as well as relocation and

retirement benefits. The federal government strongly espouses the principle, both for itself and private employers, of equal pay for equal work. Yet it knowingly has tolerated a system in which gay and lesbian employees have less total compensation than their non-gay co-workers who are doing the same work. It is time for the federal government to live up to the principles we espouse.

It is time for the federal government to catch up to the private sector. Domestic partner benefits are necessary for the federal government to compete for the most qualified employees and to ensure that all of its public servants receive fair and equitable treatment. It makes good economic and policy sense. And it is the right thing to do.

Thank you for the opportunity to testify. I would be happy to answer any questions the Committee might have.