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Feds move quickly on benefits after Supreme Court's gay-marriage ruling

By: Tom Howell Jr. – July 1, 2013

The Obama administration is moving quickly to implement changes from the Supreme Court decision last week to extend benefits to married same-sex couples, a ruling that offered a tangible boost to gays in more than a dozen states even as its impact on the nation's fiscal house remains a puzzle.

Two days after the justices struck down a central provision of the Defense of Marriage Act, federal officials said they were working to figure out which benefits can go to same-sex partners in states where their unions are recognized as marriages.

The first decision already has been made.

A Bulgarian immigrant who married an American man in New York, where same-sex marriages are recognized, but now lives in Florida, became the first gay person to have a green card application approved as a result of the Supreme Court ruling against DOMA. The couple's attorney cried during a business event while reading a notice of the unexpectedly quick turnaround, according to The New York Times.

"There are numerous benefits that are affected by the Supreme Court's decision, and it is impossible to answer today every question that you may have," Office of Personnel Management acting Director Elaine Kaplan said Friday. "Nevertheless, I want to assure you that the U.S. Office of Personnel Management is committed to working with the Department of Justice to ensure swift and seamless implementation of the court's ruling."

The office has issued a memo telling federal employees how to apply for specific benefits that had been out of reach, including health, life, dental and long-term care insurance. The office also is working out how same-sex couples will access benefits such as Social Security, military and health care payments, and tax breaks for those who are married.

Less clear is the effect on the budget.

The Congressional Budget Office examined the topic in 2004 and produced a report that is dated but cited as the best available analysis. If same-sex marriages are recognized, the nation's deficit would decrease by less than \$1 billion per year over a decade, the report said.

The office characterized the uptick in revenue to the federal government, the result of quirks in the tax code, as a "small benefit," and the analysis assumed that same-sex marriages would be performed in all 50 states. That is the case in roughly a quarter of the states, covering about 30 percent of the country's population now that the Supreme

Court also has cleared the way for same-sex marriage in California and when laws authorizing the practice in Minnesota and Rhode Island take effect Aug. 1.

In the Washington region, where federal employees make up a higher percentage of the workforce, it will apply to Maryland and the District, but not Virginia, where marriage is defined as the union of a man and a woman.

The 5-4 court ruling kept in place a section of DOMA that allows states to decline to recognize other states' same-sex marriages, but legal fights to end that accommodation have begun.

Additionally, analysts have scant data and no way of knowing how many same-sex couples will marry in a given year, whether they live in a state where gay marriage is sanctioned and whether they will apply for benefits.

"A lot depends on who takes it up," said Michael D. Tanner, a senior fellow at the Cato Institute in Washington.

The Congressional Budget Office projected that many more same-sex partners will file their income taxes jointly as a married couple if gay marriages are recognized nationwide. Because same-sex couples tend to have similar income levels, they are more vulnerable to a "marriage penalty," the report said.

That means their tax liability would be greater, as opposed to tax benefits that result from a wider disparity in incomes or when only one spouse goes to work.

"For many couples, federal recognition of same-sex marriages will mean lower tax bills, but some gay couples will end up paying more," Robertson Williams, who used to work at the budget office and is cited as a contact for the 2004 report, wrote in a blog post last week for the Tax Policy Center.

Further complicating the matter, the extension of Bush-era tax cuts should reduce the anticipated revenue from marriage penalties, analysts said.

Mr. Tanner said predictions of a budgetary swing from the ruling might be "a bridge too far" because changes will be "pretty modest, either way."