



Justice for all?

Michigan Supreme Court rules domestic partnership benefits unconstitutional

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It makes no sense to A.T. Miller why anyone would want to take away his rights. The Manchester resident is a law-abiding citizen, well respected at his job at the University of Michigan, a doting partner in his long-term relationship and a loving son who cares for his elderly parents. The only problem is that Miller is gay.

Last Wednesday, a decision was made that shook the LGBT community. The Michigan Supreme Court ruled that the language of the amendment that defined marriage in Michigan as between one man and one woman precluded unmarried couples from receiving domestic partnership health care benefits. The decision affects hundreds of Michigan residents, like Miller, whose families and partners rely on one person's health care plan.

In 2005, National Pride at Work, Inc. and numerous individuals in same-sex relationships brought an action in the Ingham Circuit Court to clarify that the prohibition of same-sex marriages or similar unions would not stop couples from receiving health care benefits provided by one partner's public employer.

The court ruled in their favor, but the decision was reversed in the Court of Appeals in 2007.

On Wednesday, that reversal was affirmed 5-2 in the Supreme Court in a decision that National Gay and Lesbian Task Force Director of Public Policy and Government Affairs Dave Noble called "tragic."

The majority opinion stated, "The amendment prohibits public employers from recognizing a same-sex domestic partnership as a union similar to marriage for any purpose, including for the purpose of providing health-insurance benefits."

Justice Marilyn Kelly, joined by Justice Michael F. Cavanagh, wrote a dissenting opinion. They remarked that the language of the amendment "prohibits nothing more than the recognition of same-sex marriages or similar unions."

"We're extremely disappointed with the decision," said Affirmations Community Center Community Organizing Coordinator Bashar Makhay. "This has left thousands of children with loving families without access to health care."

ACLU of Michigan, who spearheaded the effort to stop health care from being considered to be under the umbrella of marital benefits, voiced their disappointment as well. "It's both flawed and unfortunate," Executive Director Kari Moss said of the decision. Moss pointed out that the decision came despite statements made by proponents of Proposal 2 who said that their only intent was to limit marriage benefits, not to take away health care benefits. In fact, the majority opinion made no mention of the statements at all. "The consequence is potentially very serious," added Moss. "Health care is extraordinarily expensive."

'A sad day in Michigan'

For families with children, the problems that will arise are especially perilous.

Tom Patrick, 50, of Superior Township, lives with his partner Dennis, 45, and their five children. Four of the children are adopted and one is a foster child. All seven of them rely on the health care benefits Dennis receives from his full-time position at Eastern Michigan University.

Given this outcome, the Patricks may have to make some very tough decisions. Several of their children have mental issues, and one has a serious seizure disorder. Tom, who works part-time as a teacher for Plymouth-Canton Community Schools, fears that he may have to go back to work full time to ensure that he and their entire family can have health care. "It's very disheartening, in this time when we're doing all we can to care for our children, that some are making decisions to remove these benefits," Tom said. "Our goal is to take care of these kids and it feels threatened that these benefits may be removed."

"It's a sad day in Michigan when we decide which children and families are valuable enough to cover," he continued. "It's difficult for my children to know what's happening and for them to see and experience that someone might not think that they need to be cared for."

For Miller, 50, who is U of M's director of the Global Intercultural Experience, and his partner Craig, 52, the decision affects not only them, but also their parents. All four of their parents moved to Ann Arbor, and Craig, who works part-time at the Chelsea hospital, spends much of his time caring for them. "This imperils our ability to care for our elderly parents," Miller said.

Though Miller is confident that U of M and other institutions will provide their employees with a way to continue receiving health care for their families, his concern is that many will not be able to meet the expectations of these alternative plans. "My concern is about others," he said. "The way of (receiving benefits) is very involving. There are aspects of it that may be difficult for some other people to meet."

For example, those who wish to receive or keep benefits will most likely have to hire a lawyer, fill out paperwork and meet certain standards that married couples never face.

Although Miller and his partner did what was necessary to receive benefits, Miller admits that it was a complex process. Still, they did what they had to do to stay in Michigan with their parents. "It's a complicated thing," he explained of the decision to stay. "It's not like we're kids and we can just pick up and leave."

Economic consequences

When Central Michigan University began looking for a new provost, they knew exactly whom they wanted. Dr. Carol Bresnahan, outgoing vice provost for Academic Programs and Policies of the University of Toledo, was "aggressively" recruited for the position, and considered applying for it. In the end, she decided that moving to Michigan and taking the job wasn't right for her. Though personal reasons were a large part of her decision, Bresnahan had another factor impacting her choice: the benefits available for her and her partner.

"I was very concerned about the outcome (of the Proposal 2 court case)," Bresnahan said. "I wanted to know what plans Central had if, in fact, the plan went the wrong way."

Soon, Bresnahan and her partner will be relocating as she takes a job as provost of the College of New Jersey. "I have accepted a job in a state where I can get a civil union," she added.

Bresnahan's mentality is one that many fear will be common as a result of the loss of health care benefits for same-sex couples. Not only will talented people shy away from moving here, but

some Michigan residents may choose to leave. Overall, the outlook of the decision's effect on Michigan's already failing economy is bleak.

"I think it will actively harm Michigan's economy, because the most progressive, the most creative - all those cutting edge industries and jobs - (domestic partnership benefits) are all standard practice," said Miller, who noted that several of his colleagues at U of M have already left Michigan. "This is terrible for the state. You become famous for being the state of bigots. That's not a way to stand out for investment or encouraging people to relocate.

"It will be a real blow economically," he continued. "It's not even just that people will leave. There are all kinds of people who just won't come."

Bresnahan agreed, noting that she is just one of many people who, faced with many career options, will never choose a state that takes away benefits from the very people it seeks to have as part of their workforce.

"If these states are smart, they will do whatever they can to make a culture and atmosphere that is welcoming," said Bresnahan of Michigan and her home state, Ohio. "Things like this are the opposite of what they should be doing."

What happens now?

Michigan is the first state with a marriage amendment that has received a ruling that interprets health care as a benefit of marriage. Many believe that it will set a precedent for future rulings where other benefits of employment will be construed as being benefits of marriage and, therefore, taken away. "I worry about aggressive legal action that would challenge the benefits we're receiving now - and not just health benefits," said Miller.

To many Michigan residents, this appears to be only the start of the amendment's interpretation that affects same-sex couples and their families negatively.

"All kinds of things could start being questioned," said Miller. "(This decision) opens the door for that."

Moss and the ACLU admit that their next course of action is unclear. ACLU of Michigan attorney Jay Kaplan said that they are starting to discuss a possible attempt to federally challenge Michigan's marriage amendment. That decision, however, will be based on talks with national LGBT organizations and may take some time to get started.

For now, said Kaplan, making sure that none of these families lose their health care is their top priority. "Our immediate concern is to make sure that no children lose their health care," he said. Their hope is that, for the time being, employers will adopt alternative language that will help the families retain their health care coverage. This solution, however, is short-term and unstable, requiring large amounts of paperwork.

The truth of the difficulty that lies ahead has left Michigan families and couples anxious and outsiders concerned about Michigan's future. "I think Michigan should be worried," warned Bresnahan, who believes that exclusive laws like the marriage amendment drive educated, progressive people away - just the type of people Michigan needs to bounce back economically. "Until these laws are changed, it's not going to be a competitive place. It's not just me they're losing, it's everyone like me."