



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**  
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**FINAL DETERMINATION**

Jacqueline A. Cote [Charging Party]  
c/o Gay & Lesbian Advocates & Defenders  
Attn. Janson Wu, Esq.  
30 Winter Street, Suite 800  
Boston, MA 02108

v.

Wal-Mart Stores East, LP [Respondent]  
c/o Littler Mendelson, P.C.  
333 SE 2<sup>nd</sup> Avenue, Suite 2700  
Miami, Florida 33131  
Attn. Erica Hickman, Esq.

Re: Jacqueline A. Cote v. Wal-Mart Stores East, LP  
EEOC Charge No. 523-2014-00916

I issue the following determination on the merits of the subject charge. Respondent is an employer within the meaning of Title VII of the Civil Rights Act of 1964, as amended [TVII]. All requirements for coverage have been met.

Charging Party alleges she was subjected to employment discrimination by the Respondent because of her sex [female] in violation of TVII. Specifically, Charging Party states that as part of her compensation package, she received employee health insurance benefits, and that Respondent provides qualified employees with the option of obtaining health insurance coverage for their spouse.

Respondent denies discriminating against Charging Party. In its position statement, Respondent asserts that “[Wal-Mart’s] health benefits plan is self-insured, and issues relating to plan coverage are therefore governed by the federal Employee Retirement Income Security Act.”

The Commission’s investigation reveals that Charging Party, female, applied for “spousal

health insurance benefits” in 2008 or 2009, with the Respondent, and was denied the benefit due to Respondent’s policy that individuals eligible for benefits had to be “[a] legal spouse of the opposite gender.” While it is true that Respondent subsequently modified its “health benefits plan to include same-sex spouses and domestic partners” effective January 1, 2014, Charging Party was subjected to employment discrimination in that she was treated differently and denied benefits *because* of her sex, since such coverage would be provided if she were a woman married to a man.

The Commission finds that Respondent’s refusal to add Charging Party’s spouse to her health insurance coverage following their marriage constituted discrimination on the basis of her sex, female.


Based on the above, the Commission has determined that there is reasonable cause to believe that the Respondent has discriminated against the Charging Party on account of her sex.

This determination is final. TVII requires that, if the Commission determines that there is reasonable cause to believe that violations have occurred, it shall endeavor to eliminate the alleged unlawful employment practices by informal methods of conference, conciliation, and persuasion. Having determined that there is reason to believe that violations have occurred, the Commission now invites Respondent to join with it in an effort toward a just resolution of this matter. Please contact Equal Opportunity Investigator Susan Boscia at 617-565-3213 on or before February 9, 2015, to indicate your willingness to conciliate this matter.

Disclosure of information obtained by the Commission during the conciliation process may only be made in accordance with TVII and the Commission’s Procedural Regulations. The confidentiality provisions of Sections 706 and 709 of Title VII and Commission Regulations apply to information obtained during conciliation.

If Respondent declines to enter into conciliation discussions, or when the Commission’s representative is unable to secure an acceptable conciliation agreement, the Director shall so inform the parties, advising them of the court enforcement alternatives available to aggrieved persons and the Commission.

On behalf of the Commission:

  
Kenneth An, JD  
Director  
Boston Area Office

JAN 29 2015  
Date