



DEPARTMENT OF THE TREASURY
WASHINGTON

ASSISTANT SECRETARY

March 26, 2014

The Honorable Patty Murray
United States Senate
Washington, DC 20510

Dear Senator Murray:

Thank you for your letter to Secretary Lew and Secretary Sebelius regarding the ability of victims of domestic abuse to access the Affordable Care Act's premium tax credit. Because guidance on the premium tax credit falls under the jurisdiction of the Office of Tax Policy, your letter was referred to me.

The Treasury Department is committed to addressing the needs of victims of domestic abuse. Your letter discusses important concerns about the difficulty that victims of domestic abuse may face in enrolling in coverage with help from the premium tax credit. As you note, individuals who are legally married are generally required to file a joint income tax return to claim the premium tax credit, including any advance payments. This is a common requirement for receiving means-tested tax benefits. For victims of domestic abuse, getting in contact with a spouse for purposes of filing a joint return may be traumatic, dangerous, or prohibited by a restraining order. Your concerns are consistent with those expressed to us by numerous others in public comments and meetings.

The Treasury Department and the IRS are working to develop rules to address the concerns expressed in your letter, while considering the need to limit the rule to those who legitimately qualify. We note that current rules allow certain married individuals with children who are living apart from their spouse to file as a "head of household."⁶ This rule makes it possible for some victims of domestic abuse to claim the tax credit while filing a separate return, but it is not available to many affected individuals. As you are aware, final regulations under the premium tax credit indicated that Treasury would propose additional regulations addressing domestic abuse and other circumstances that create obstacles to filing a joint return. The regulations also requested comments on how to structure a rule to address such situations, including the types of documentation a taxpayer might provide to establish eligibility for the rule and the need for appropriate safeguards. In response to this request, the Treasury Department received several suggestions.

⁶ See "Considered Unmarried" in IRS Publication 501, "Exemptions, Standard Deduction, and Filing Information," available at http://www.irs.gov/publications/p501/ar02.html#en_US_2013_publink1000220780.

We expect to release proposed regulations with these rules later this spring. That said, we understand that individuals need to know whether they will qualify for the premium tax credit for 2014 so that they can enroll in coverage. Accordingly, today the Treasury Department and the IRS are releasing guidance providing that a married individual who is living apart from his or her spouse, and who is unable to file a joint return as a result of domestic abuse, will be permitted to claim a premium tax credit for 2014 while filing a tax return with a filing status of married filing separately.

It is our understanding that the Department of Health and Human Services (HHS) will clarify in educational materials how individuals who qualify for this rule can obtain an eligibility determination for advance payments of the premium tax credit. In addition, while open enrollment ends on March 31, 2014, we understand that HHS has clarified that a Marketplace may establish a special enrollment period for such individuals so they will have sufficient time to select a qualified health plan through the Marketplace, and that HHS has established such a special enrollment period with respect to the Federally-facilitated Marketplace.

We hope this information is helpful. Thank you for your leadership on this important issue.

Sincerely,



Mark J. Mazur
Assistant Secretary (Tax Policy)