

## United States Senate

WASHINGTON, DC 20510

COMMITTEES:  
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LABOR, AND PENSIONS

BUDGET

SPECIAL COMMITTEE  
ON AGING

COMMITTEE ON HOMELAND SECURITY  
AND GOVERNMENTAL AFFAIRS

March 25, 2014

The Honorable Jack Lew, Secretary  
Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, D.C. 20220

Dear Secretary Lew:

As the deadline to enroll in individual health insurance plans for 2014 fast approaches, I write to urge the Department of the Treasury to make it easier for Americans who face special challenges to receive premium tax credits provided by the Affordable Care Act (ACA). More specifically, the Department should establish a process to allow married individuals, in certain dire circumstances, to claim an exemption to the requirement to file a joint tax return. Issuing swift regulatory guidance to implement this process would ensure that married individuals who face special roadblocks filing joint returns have meaningful access to affordable health coverage as soon as possible. I join my colleague Senator Begich in urging your immediate action on this issue, as the need for timely access to affordable coverage is particularly acute in my home state of Wisconsin.

To expand access to affordable health coverage, the ACA provides advanced premium tax credits to individuals with incomes between 100 and 400 percent of the federal poverty level. Under the law, married taxpayers must file a joint return for the taxable year to be eligible to receive premium tax credits. While consistent with the provision of other tax credits, this requirement severely inhibits some married individuals who cannot file a joint return from realizing the full benefits and protections of the new health law.

For some married taxpayers, it is dangerous or even impossible to file a joint tax return. For example, victims of domestic violence may opt against filing a joint return in order to keep their whereabouts secret from an abusive spouse. Likewise, in cases of abandonment, financial fraud in marriage, incarceration, and a spouse living outside the country, individuals may not be able to file a joint return. Low-income families are particularly disadvantaged by this requirement, as they often lack sufficient resources to pursue a legal separation or divorce. Individuals in such difficult situations should not be penalized with higher costs for health coverage. Without access to premium tax credits, many of these individuals may decide to forgo coverage and remain uninsured, which is a consequence that undermines the goals of the ACA.

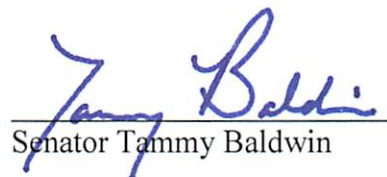
I have personally heard concerns from constituents in my home state who have not been able to receive the premium tax credits they deserve because they are married but, due to unique circumstances, are not able to file a joint return. In Wisconsin, it is especially important that all eligible individuals have meaningful access to the Marketplace as well as the premium tax credits and cost-sharing subsidies. Governor Walker has refused to accept a federal investment to expand Wisconsin's Medicaid program under the ACA, and instead has chosen to kick an

estimated 77,000 Wisconsin citizens off their current Medicaid coverage. These low-income individuals will become uninsured unless they enroll in affordable health coverage through the Marketplace.

To accommodate married individuals in challenging circumstances, the Department of the Treasury should allow enrollees to request an exemption from the requirement to file a joint return in order to receive premium tax credits. The process should provide a broad category of exceptional circumstances and include appropriate documentation requirements for individuals seeking an exemption. In addition, taxpayers should be able to seek an exemption for multiple years in certain cases. Importantly, this system should include proper safeguards to prevent fraud and misuse of the exemption.

I am encouraged that in the 2012 final rule regarding the health insurance premium tax credit, the Department of the Treasury indicated intent to propose additional regulations that provide special rules for married taxpayers to claim the premium tax credit on separate returns in certain circumstances. To promote access to affordable health insurance, I urge you to issue such guidance as soon as possible to provide appropriate relief to low-income individuals in challenging circumstances. Further, I ask that you work with the Department of Health and Human Services to ensure that these individuals can enroll in coverage and receive premium tax credits using this process if they were not able to obtain such coverage before the March 31<sup>st</sup> open enrollment deadline. I appreciate your ongoing work to implement the ACA, and thank you for your timely attention to this critical issue.

Sincerely,

  
Senator Tammy Baldwin

CC: The Honorable John Koskinen, Commissioner, Internal Revenue Service;  
The Honorable Kathleen Sebelius, Secretary, Department of Health and Human Services