

My husband took off and now I can't get a health insurance subsidy

How to qualify for financial help if you're married but have to file separately

Published March 16, 2014 06:00 AM

Q. I am married, no kids, and my husband took off three years ago. I have no idea where to find him so I can get a divorce. I've been filing my taxes as "married but filing separately" and have found out that unless I file jointly I can't get financial assistance with my health insurance premium. What am I supposed to do?

A. As you have already discovered, the IRS has made it crystal-clear that under the rules of the new health care law, anyone who is married must file a joint 2014 tax return with a spouse in order to qualify for tax credits to lower the cost of health insurance.

If you had children, you could get the tax credits by exercising your option of filing as "head of household" as long as the kids lived with you more than half the year, you paid more than half the household expenses, and were living apart from your husband for the last six months of the year.

But without kids, your only recourse is to get a divorce, which turns out to be possible even if your husband is nowhere to be found, according to Maria Cognetti, president of the American Academy of Matrimonial Lawyers.

"The issue you need to resolve is service of the divorce papers," she said. "You need to prove to the court that you've done everything possible to locate him, at which point you'll be allowed to proceed" with your divorce even in his absence. The requirements to prove you've searched high and low vary from state to state, she says, but might include such measures as mailing the papers to his last known address, submitting sworn affidavits that you've talked to relatives or friends who might know where he is, or even publishing a notice in the local newspaper.

It's probably best to have the help of a matrimonial lawyer to get you through this process. Cognetti recommends starting with your [state or local bar association](#), which can refer you to free legal service programs if your income qualifies you, or, if it doesn't, to an affordable matrimonial lawyer on their referral list.

Clearly this is a project that you're not going to be able to finish by the [end of this year's open enrollment period on March 31](#), which raises another issue. If you remain uninsured past open enrollment, and manage to get your divorce in, say, July, you won't qualify for a "special enrollment period" to get insurance outside of open enrollment, according to Tara Straw, an expert on enrollment rules at the [Center on Budget and Policy Priorities](#), a Washington, D.C. research organization. "Divorce doesn't trigger a special enrollment unless it results in a loss of coverage," she said, so if you're not covered to begin with, you're out of luck.

The solution to this is to purchase the cheapest plan available to you on [your state's Health Insurance Marketplace](#) during open enrollment, even though you'll be paying full price. When your divorce comes through, the change in your subsidy eligibility status will qualify you for a special enrollment period. You can take advantage of that to claim your subsidy and upgrade to a better plan if you want. I priced out unsubsidized plans for a 35-year-old in your community and the cheapest available was a Bronze plan for \$241 a month. You should buy it right away and start work on getting rid of your soon-to-be-former husband.

Got a question for our health insurance expert? [Ask it here](#); be sure to include the state you live in. And if you can't get enough health insurance news here, follow me on Twitter [@NancyMetcalf](#).

—Nancy Metcalf

