



Policy Clarification 2017-04-02

Title: Common-Law Marriage and Tax Filing Status

Date: 4/20/2017

From: Allison Miller, Family Medical Policy Manager

Program impacted: MAGI Programs

In situations where a couple indicates they are not married, but planning to file taxes as Married-Filing Jointly, further information is required. Contact with the applicant is required to get clarification of their relationship status and tax filing status.

The IRS will not allow unmarried individuals to file taxes as married filing jointly. Therefore, those two statements cannot co-exist. The consumer is required to indicate that they are either common-law married or they agree that they will not file as married-jointly. The application cannot be processed if the consumer doesn't resolve this discrepancy.

Verification of their tax filing status and relationship should be treated like all other information required to make a determination. A formal request for information is sent if unable to reach the client by phone to clarify. If the applicant fails to respond to the request for information, the application shall be denied for failure to provide information. Their relationship status shall remain as Not Related in KEES until otherwise determined.

In some situations, the consumer may have indicated a Married-Filing Jointly status because they are planning to get married during the current year. When this occurs, the current determination shall be completed with the relationship and tax filing status as it exists today. The consumer shall be told to report the change when their marriage status or tax-filing status changes.

For individuals who have already told us they are common-law married, proof of legal divorce is required. As indicated in KDHE-DHCF Policy Memo 2015-11-01, '...dissolution of the marriage established in this manner can only be accomplished through the formal divorce procedures established through the courts. There is no such thing as a common-law divorce.'

If proof of the dissolution of marriage isn't provided, it is generally not necessary to deny or discontinue. The application/request shall just be processed with the relationship status of married. The relationship status in KEES shall remain as 'spouse' until otherwise verified that the marriage has ended.

Note: While this clarification is specifically addressing how to deal with common-law marriages as they relate to the MAGI tax filing status, the policies regarding the definitions of common-law marriages and dissolution of the marriage are applicable to all medical programs. Also see KDHE-DHCF Policy Memo 2015-11-01.