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NY 11-31
PE 11-23
SEHP 11-08

To: New York State and Participating Employer Health Benefit Administrators

From: The Employee Benefits Division

Subject: Dependent Tax Affidavit Form PS. 425.3

Date: September 9, 2011

As you are aware, the Marriage Equality Act, signed by Governor Cuomo, became effective July 24, 2011. The Act amends the Domestic Relations Law to provide that a marriage that is otherwise valid shall be valid in New York State regardless of whether the parties to the marriage are of the same or different sex.

As explained in memo NY 11-21, PE, and SEHP 11-07, dated August 16, 2011, since NYSHIP has recognized same-sex spouses for eligibility purposes since May 1, 2007, NYSHIP benefits and eligibility for benefits have not changed as a result of the Marriage Equality Act. However, the Act does affect the tax treatment of NYSHIP benefits for same-sex spouses who are not federally qualified dependents. Prior to the Act, these spouses were subject to imputed income for both Federal and State income tax purposes. The Act changes the tax treatment of NYSHIP benefits by the State; they are no longer subject to imputed income for State tax purposes.

Enrollees whose same-sex spouses are not qualified as dependents under Section 152 of the Federal IRS Code are subject to imputed income for Federal tax purposes; the fair market value of the benefits provided to non-federally qualified dependents is reportable to the IRS as imputed income for the enrollee, and Federal income tax must be paid on that value.

The Dependent Tax Affidavit (Form PS425.3), included with this memo, has been revised to accommodate enrollment requests for enrollees with dependents eligible as a Domestic Partner or the Marriage Equality Act. In addition to the usual enrollment application, the Dependent Tax Affidavit should be provided to your employees at the time of their request to cover a Domestic Partner or Same Sex Spouse under the New York State Health Insurance Program (NYSHIP). It is recommended that you provide your employees with the imputed income information sheet included with this memo, and the imputed income amounts, located on the NYBEAS flat rate summary panel. If the spouse is a qualified dependent for Federal Tax purposes and the enrollee submits a Dependent Tax Affidavit Form attesting to that status, the calculation and reporting of imputed income and the applicable tax is no longer required.

If you have any questions, please contact your processor.

Encl.



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IMPUTED INCOME INFORMATION

When an enrollee's dependent is a non-federally qualified dependent, the fair market value cost of the dependent's coverage is considered additional income to the enrollee. The New York State Health Insurance Program (NYSHIP) considers the fair market value cost the full share cost of individual coverage less the employee's premium contribution for dependent coverage. NYSHIP is required to calculate and report imputed income to the Internal Revenue Service (IRS) for all enrollees who are providing NYSHIP coverage for a non-federally qualified dependent.

Imputed Income

Internal Revenue Service (IRS) rules require that the fair market value of the coverage provided to a non-federally qualified dependent be reported as imputed income to the enrollee. It is recommended that enrollees consult their tax advisor or accountant regarding questions concerning whether their dependent is a "federally qualified" dependent or what the effect of these requirements will be on their personal tax situation. The enrollee is only responsible for the additional tax applicable to the imputed income. This means that the amount of taxable income reported on the enrollee's W-2 will be increased by the fair market value of that coverage and the additional applicable tax will be withheld each pay period.

Imputed income is also reported for enrollees in non-pay status utilizing a MISC-1099. The applicable taxes for imputed income reported for enrollees through a MISC-1099 are assessed when enrollees file their annual tax return.

Imputed income is **not** an additional amount added to the total premium paid. It is additional taxable income based upon the fair market value of the non-federally qualified dependent's coverage.

Imputed income amounts are available from your agency Health Benefits Administrator or from the Employee Benefits Division of the Department of Civil Service.



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EMPLOYEE BENEFITS DIVISION

DEPENDENT TAX AFFIDAVIT FOR ENROLLMENT IN THE NEW YORK STATE HEALTH INSURANCE PROGRAM (NYSHIP)

PS-425.3 (8/11)

The following definitions extracted from the Internal Revenue Code (IRC) may be helpful in determining if your dependent qualifies as a dependent for federal purposes. **It is recommended that you seek the advice of a tax professional or consult with your tax advisor before you complete this affidavit.**

IRC SECTION 152 DEPENDENT DEFINED.

Under IRC Section 152 a dependent can be a qualifying relative[S152(a) (2)]

A qualifying relative can be an individual with respect to whom the taxpayer provides over one-half of the individuals support for the calendar year in which such taxable year begins[S152 (d) (1) (c)] and,

Is an individual (other than an individual who at any time during the taxable year was the spouse, determined without regard to section 7703, of the taxpayer) who, for the taxable year of the taxpayer, has the same principal place of abode as the taxpayer and is a member of the taxpayers household. [S152 (d) (2) (h)]

An individual shall not be treated as a member of the taxpayer's household if at any time during the taxable year of the taxpayer the relationship between such individual and the taxpayer is in violation of local law. [S 152 (f) (3)]

Name of Dependent

Social Security Number

- ☐ DOES fully qualify as my dependent under Internal Revenue Code Section 152. Checking this box is my official affirmation to NYSHIP that **I am not subject to federal tax withholding** for any imputed income resulting from benefits extended to my dependent. I understand that I will be required to complete a new Dependent Tax Affidavit if my dependent's status under IRC section 152 changes at any time.
- ☐ DOES NOT qualify as my dependent under Internal Revenue Code Section 152. Checking this box is my official affirmation to NYSHIP that **I am responsible for reporting and paying federal tax** on any imputed income resulting from benefits extended to my dependent. I understand that I will be required to complete a new Dependent Tax Affidavit if my dependent's status under IRC section 152 changes at any time.

Print Name (Enrollee)	
Social Security Number	
Address	
Enrollee Signature	Date
(sign in presence of Notary)	

Subscribed and sworn to before me on this ____ day of _____, _____.

NOTARY PUBLIC

Personal Privacy Protection Law Notification

The information you provide on this application is requested for the principal purpose of enabling the New York State Department of Civil Service to enroll a dependent in the New York State Health Insurance Program, Dental Program, Vision Program, and/ or Employee Benefit Fund Program. The information will be used in accordance with Section 96 (1) of the Personal Privacy Protection Law, particularly subdivisions (b), (e) and (f). Failure to provide the information requested may delay the Department in processing this application. This information will be maintained by the Director, Employee Benefits Division, NYS Dept of Civil Service, Alfred E. Smith State Office Building, Albany, NY 12239. For information related only to the Personal Privacy Protection Law, call (518) 457-9375. **For information related to the Health Insurance Program, call (518) 457-5754 or 1-800-833-4344 between the hours of 9:00 a.m. and 3:00 p.m.**