

Veterans TRICARE Choice Act

Congressman Stewart (R-UT-2) Congresswoman Gabbard (D-HI-2)

Legislation Needed to Permit TRICARE-Eligible Military Retirees and Veterans to Make Contributions to Tax-Favored Health Savings Accounts (HSAs)

The Problem

As discussed in detail below, no individual who is eligible for TRICARE medical coverage is eligible to make contributions, or to receive employer contributions, to a tax-favored Health Savings Account (HSA). An individual becomes eligible for TRICARE because he or she is a retired service member or a currently serving member of the Reserves or National Guard.

Not only are veterans excluded from making HSA contributions themselves, but so are their current, private employers even if the employer makes contributions to the HSAs of other employees. These HSA contributions are disallowed by law solely because these individuals are covered by TRICARE. Presently, there is no means for these individuals to opt out of TRICARE and become eligible for HSA contributions.

To eliminate this inequality, the Veterans TRICARE Choice Act amends the Internal Revenue Code to permit TRICARE-eligible individuals to enroll in HSA-eligible health plans and it amends 10 USC 55 § 1097 to grant TRICARE-eligible veterans the ability to freeze and unfreeze their TRICARE eligibility, permitting these current and former service members to become eligible for HSA contributions.

TRICARE Overview

One becomes eligible for TRICARE by being enrolled in the Defense Enrollment Eligibility Reporting System (DEERS). Upon entering military service, a service member is automatically enrolled in DEERS. This process applies to those in the Reserves and National Guard as well. When a service member retires from the military, regardless of having been Active Duty, Reserve, or National Guard, he or she remains in DEERS and is eligible for coverage under the TRICARE program.

The TRICARE program offers several options to retirees and currently serving members of the military. Although a military retiree must choose to enroll in TRICARE Prime upon retiring from the military, no enrollment is necessary for TRICARE Standard. As long as a military retiree is enrolled in DEERS, then he or she will automatically have coverage under the TRICARE Standard or Extra programs. Currently, there is no mechanism in place for an individual to suspend their TRICARE eligibility.

As a result, current and former service members can never be eligible to make contributions to, or receive employer contributions to, a tax-favored HSA because coverage options under

TRICARE do not meet the minimum annual deductible requirements for a High Deductible Health Insurance Plan (HDHP) under section 223(c)(2) of the Internal Revenue Code. For many, the problem occurs after having retired as they begin employment outside of the military. These individuals then become eligible for health insurance coverage through their employer. One form of coverage offered by the employers comes in the form of an HDHP, giving the employee the ability to make individual contributions to a tax-favored HSA and the ability to benefit from possible employer contributions. As stated previously, an individual who has TRICARE coverage is ineligible by law to make contributions or to receive any employer contributions to an HSA.

Although a veteran may decide that an HDHP and HSA is the best option for them and their families for medical coverage, their TRICARE eligibility would preclude them from doing so. To better understand why a veteran would want to opt out of their TRICARE coverage and have an HDHP with an HSA, it is essential to understand the value of having an HSA.

Health Savings Accounts (HSA) Overview

Health Savings Accounts are governed by Section 223 of the Internal Revenue Code, which provides as follows:

- An individual's HSA is funded with cash contributions made by the individual, and/or by the individual's employer.
- An Eligible Individual for this purpose is one who meets *both* the following:
 - Individual must be covered under a high deductible health plan (HDHP).
 - AND**
 - Individual must not also be covered under a health plan that is not an HDHP and that provides coverage for any benefit covered under the HDHP.
- HSA contributions by or on behalf of an Eligible Individual are limited to \$3,350 if enrolled in single HDHP coverage, or \$6,650 if enrolled in any tier of coverage other than single coverage, taking into account both employee and employer contributions.
- Eligible Individuals age 55 and older, and their spouses age 55 and older, may contribute an additional \$1,000 annually.
- An HSA is a tax-exempt account; earnings on the HSA account balance are not taxable to the accountholder.
- Distributions from an HSA are tax-free if they are used to pay for the qualified medical expenses of the individual and the individual's spouse and dependents.
- No HSA contributions may be made by or on behalf of an individual once the individual is entitled to Medicare benefits (generally at age 65).
- After age 65, distributions from an HSA are tax-free if used for qualified medical expenses and are taxable if used for any other expenses.

Example: In 2015, an employer offers an HDHP with a deductible of \$2,600 (the minimum deductible for a family in 2015). The employer would also make tax-free contributions to each employee's HSA of \$6,650. The employee would have the option to use the money for his or her family's medical-related expenses this year and allow the remaining balance in the HSA to grow tax-free for use in future years. However, an employee who has TRICARE coverage would be ineligible for any individual or employer contributions.

The negative effect of this discrimination for having TRICARE coverage compounds over time. For example, assume that a veteran chooses to retire at the age of 40. He/she then has to pass up on the example detailed above because of his/her TRICARE coverage, resulting in a loss of about \$176,250 over 25 years (based on 2015 limits of \$6,650/year until the age of 55, \$7,650/year after the age of 55 and up to the age of 65, and also excluding any interest earned). Without being afforded the opportunity to opt out of TRICARE a veteran is automatically excluded from being able to look at an HDHP and HSA as an option, even if it is the best option for them at the time.

The Solution

The Veterans TRICARE Choice Act will put our veterans on equal footing with other individuals with respect to health insurance coverage and their eligibility for HSA contributions. The legislation will amend Section 223 of the Internal Revenue Code and applicable TRICARE law to provide that a TRICARE-eligible individual may elect to suspend his or her TRICARE eligibility while enrolled in an HDHP, and to allow an individual to make HSA contributions or become eligible for employer contributions. Additionally, the veteran's information will be retained in DEERS, so that they have the ability to opt back in to TRICARE when it becomes the more viable option.

The legislation is not only a common sense solution to allow for our veterans to have equitable access to the health care options offered by civilian employers, but it would also result in saving taxpayers and the government money.

POC: Nathaniel Johnson (Stewart) nathaniel.johnson@mail.house.gov
Christine Wagner (Gabbard) Christine.wagner@mail.house.gov