

**DESCRIPTION OF H.R. 5458,  
THE “VETERANS TRICARE CHOICE ACT”**

Scheduled for Markup  
by the  
HOUSE COMMITTEE ON WAYS AND MEANS  
on June 15, 2016

Prepared by the Staff  
of the  
JOINT COMMITTEE ON TAXATION



June 14, 2016  
JCX-49-16

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## INTRODUCTION

The House Committee on Ways and Means has scheduled a committee markup of H.R. 5458, the “Veterans TRICARE Choice Act,” on June 15, 2016.” This document,<sup>1</sup> prepared by the staff of the Joint Committee on Taxation, provides a description of the bill.

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<sup>1</sup> This document may be cited as follows: Joint Committee on Taxation, *Description of H.R. 5458, the Veterans TRICARE Choice Act* (JCX-49-16), June 14, 2016. This document can also be found on the Joint Committee on Taxation website at [www.jct.gov](http://www.jct.gov). All section references herein are to the Internal Revenue Code of 1986, as amended, unless otherwise stated.

## **A. Coordination Between TRICARE Program and Eligibility to Make Contributions to Health Savings Accounts**

### **Present Law**

An individual with a high deductible health plan and no other health plan (other than a plan that provides certain permitted insurance or permitted coverage) is generally eligible to make deductible contributions to a health savings account (“HSA”), subject to certain limits (an “eligible individual”).<sup>2</sup> HSA contributions made on behalf of an eligible individual by an employer are excludible from income and wages for employment tax purposes. Eligibility for HSA contributions is generally determined monthly, based on the individual’s status and health plan coverage as of the first day of the month.

An individual with other coverage in addition to a high deductible health plan is still eligible to make HSA contributions if such other coverage is permitted insurance or permitted coverage. Permitted insurance is: (1) insurance if substantially all of the coverage provided under such insurance relates to (a) liabilities incurred under worker’s compensation law, (b) tort liabilities, (c) liabilities relating to ownership or use of property (*e.g.*, auto insurance), or (d) such other similar liabilities as the Secretary of the Treasury may prescribe by regulations; (2) insurance for a specified disease or illness; and (3) insurance that provides a fixed payment per day (or other period) for hospitalization. Permitted coverage is coverage (whether provided through insurance or otherwise) for accidents, disability, dental care, vision care, or long-term care. Coverage under certain health flexible spending arrangements or health reimbursement arrangements is also permitted.

The Military Health System provides active duty and retired members of the armed forces and their families (including certain survivors and former spouses) with medical coverage, primarily through the TRICARE program.<sup>3</sup> The TRICARE program offers various health plans, including a managed care option and fee-for-service options. An individual may be covered by TRICARE automatically without having to enroll in TRICARE. An individual who is covered by a high deductible health plan for a month and also covered under TRICARE for the month is not eligible to make HSA contributions for the month.

### **Description of Proposal**

#### **TRICARE program**

The proposal amends the provisions of the TRICARE program to allow a TRICARE-eligible individual to elect to be ineligible to enroll in and receive benefits under the TRICARE program (referred to herein as an “election of TRICARE ineligibility”). For this purpose, a TRICARE-eligible individual is an individual who is eligible to be a covered beneficiary entitled to health care benefits under the TRICARE program (determined without

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<sup>2</sup> Sec. 223.

<sup>3</sup> 10 U.S.C. chapter 55.

regard to an election of TRICARE ineligibility) and is not serving on active duty. An election of TRICARE ineligibility is in effect for the period beginning on the date of the election and ending on the date the individual makes an election to be eligible to enroll in the TRICARE program, as described below.

If a TRICARE-eligible individual makes an election of TRICARE ineligibility, the individual may later elect to be eligible to enroll in the TRICARE program, but only during a special enrollment period. A special enrollment period is defined as the period in which a beneficiary under the Federal Employees Health Benefits program<sup>4</sup> may enroll in or change plans by reason of a qualifying event or during an open enrollment season. The Secretary of Defense is directed to ensure that a TRICARE-eligible individual who makes an election of TRICARE ineligibility may later efficiently enroll in the TRICARE program, including by maintaining the individual, as appropriate, in the TRICARE enrollment system in inactive status.

The Secretary of Defense is directed also to ensure that a TRICARE-eligible individual who makes an election of TRICARE ineligibility is maintained on the Defense Enrollment Eligibility Reporting System (or a successor system), regardless of whether the individual is eligible for the TRICARE program during the period of the election.

Under the proposal, the Secretary of Defense is required to provide certain information to the Commissioner of Internal Revenue (the “Commissioner”) and to a TRICARE-eligible individual seeking to make an election of TRICARE ineligibility. Specifically, not later than 90 days after an election of TRICARE ineligibility, there must be provided to the Commissioner the name of the TRICARE-eligible individual who makes the election and any other information that the Commissioner may require with respect to the individual for purposes of determining the individual’s eligibility for an HSA. There must be provided to each TRICARE-eligible individual seeking to make an election of TRICARE ineligibility information regarding (1) HSAs in connection with coverage under a high deductible health plan, including a comparison of HSAs and the health care benefits the individual is eligible to receive under the TRICARE program, and (2) changing an election of TRICARE ineligibility later in order to be eligible to enroll in the TRICARE program, as described above.

In addition, not later than 60 days after the end of each fiscal year, the Secretary of Defense is required to submit to the congressional defense committees a report on elections of TRICARE ineligibility and subsequent elections to be eligible to enroll in the TRICARE program, which includes (1) the number of TRICARE-eligible individuals, as of the date of the submission of the report, who are ineligible to enroll in and receive any benefits under the TRICARE program pursuant to an election of TRICARE ineligibility, and (2) the number of TRICARE-eligible individuals who made an election of TRICARE ineligibility and, as of the date of the submission of the report, are enrolled in the TRICARE program pursuant to a later election to be eligible to enroll in the TRICARE program.

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<sup>4</sup> Provisions governing the Federal Employees Health Benefits program are contained in 5 U.S.C. chapter 89 and provide special enrollment periods in the case of certain event, such as marriage or the birth of a child. The proposal allows the Secretary of Defense to include additional events, including events relating to a member of the armed forces being ordered to active duty.

**HSA eligibility**

Under the proposal, for any period with respect to which an individual has made an election of TRICARE ineligibility, TRICARE coverage is disregarded in determining whether the individual is eligible to make HSA contributions for the period.

**Effective Date**

The proposal applies to months beginning after December 31, 2016.

**B. Estimated Revenue Effect of the Proposal [1]**

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<b>Fiscal Years</b>											
<b>[Millions of Dollars]</b>											
<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>2026</u>	<u>2017-21</u>	<u>2017-26</u>
-1	-8	-9	-9	-10	-11	-11	-12	-13	-13	-37	-97

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[1] Estimate includes the following off-budget effects:

<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>2026</u>	<u>2017-21</u>	<u>2017-26</u>
-1	-3	-4	-4	-4	-5	-5	-5	-5	-6	-16	-41