

114TH CONGRESS  
2D SESSION

# H. R. 5458

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 30, 2016

Received

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## AN ACT

To provide for coordination between the TRICARE program and eligibility for making contributions to a health savings account, and for other purposes.

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Veterans TRICARE  
3 Choice Act of 2016”.

4 **SEC. 2. COORDINATION BETWEEN TRICARE PROGRAM AND**  
5 **ELIGIBILITY TO MAKE CONTRIBUTIONS TO**  
6 **HEALTH SAVINGS ACCOUNTS.**

7 (a) IN GENERAL.—Section 223(c)(1)(B) of the Inter-  
8 nal Revenue Code of 1986 is amended by striking “and”  
9 at the end of clause (ii), by striking the period at the end  
10 of clause (iii) and inserting “, and”, and by adding at the  
11 end the following new clause:

12 “(iv) coverage under the TRICARE  
13 program under chapter 55 of title 10,  
14 United States Code, for any period with  
15 respect to which an election is in effect  
16 under section 1097e of such title providing  
17 that the individual is ineligible to be en-  
18 rolled in (and receive benefits under) such  
19 program.”.

20 (b) PROVISIONS RELATING TO ELECTION OF INELI-  
21 GIBILITY UNDER TRICARE.—

22 (1) IN GENERAL.—Chapter 55 of title 10,  
23 United States Code, is amended by inserting after  
24 section 1097d the following new section:

1 **“§ 1097e. TRICARE program: election of eligibility**

2 “(a) ELECTION.—Beginning January 1, 2017, a  
3 TRICARE-eligible individual may elect at any time to be  
4 ineligible to enroll in (and receive any benefits under) the  
5 TRICARE program.

6 “(b) CHANGE OF ELECTION.—(1) If a TRICARE-eli-  
7 gible individual makes an election under subsection (a),  
8 the TRICARE-eligible individual may later elect to be eli-  
9 gible to enroll in the TRICARE program. An election  
10 made under this subsection may be made only during a  
11 special enrollment period.

12 “(2) The Secretary shall ensure that a TRICARE-  
13 eligible individual who makes an election under subsection  
14 (a) may efficiently enroll in the TRICARE program pur-  
15 suant to an election under paragraph (1), including by  
16 maintaining the individual, as appropriate, in the health  
17 care enrollment system under section 1099 of this title in  
18 an inactive manner.

19 “(c) PERIOD OF ELECTION.—If a TRICARE-eligible  
20 individual makes an election under subsection (a), such  
21 election shall be in effect beginning on the date of such  
22 election and ending on the date that such individual makes  
23 an election under subsection (b)(1) to enroll in the  
24 TRICARE program.

25 “(d) HEALTH SAVINGS ACCOUNT PARTICIPATION.—  
26 (1) For provisions allowing participation in a health sav-

1 ings account in connection with coverage under a high de-  
2 ductible health plan during the period that the election  
3 under subsection (a) is in effect, see section  
4 223(c)(1)(B)(iv) of the Internal Revenue Code of 1986.

5 “(2) The Secretary shall submit to the Commissioner  
6 of Internal Revenue the name of, and any other informa-  
7 tion that the Commissioner may require with respect to,  
8 each TRICARE-eligible individual who makes an election  
9 under subsection (a) or (b), not later than 90 days after  
10 such election, for purposes of determining the eligibility  
11 of such TRICARE-eligible individual for a health savings  
12 account described in paragraph (1).

13 “(e) RECORDS.—The Secretary shall ensure that a  
14 TRICARE-eligible individual who makes an election under  
15 subsection (a) is maintained on the Defense Enrollment  
16 Eligibility Reporting System, or successor system, regard-  
17 less of whether the individual is eligible for the TRICARE  
18 program during the period of such election.

19 “(f) PROVISION OF INFORMATION.—The Secretary  
20 shall provide to each TRICARE-eligible individual who  
21 seeks to make an election under subsection (a) information  
22 regarding—

23 “(1) health savings accounts in connection with  
24 coverage under a high deductible health plan de-  
25 scribed in subsection (d)(1), including a comparison

1 of such health saving accounts and the health care  
2 benefits the individual is eligible to receive under the  
3 TRICARE program; and

4 “(2) changing such an election under subsection  
5 (b)(1).

6 “(g) ANNUAL REPORT.—Not later than 60 days after  
7 the end of each fiscal year, the Secretary shall submit to  
8 the congressional defense committees a report on elections  
9 by TRICARE-eligible individuals under this section that  
10 includes the following:

11 “(1) The number of TRICARE-eligible individ-  
12 uals, as of the date of the submittal of the report,  
13 who are ineligible to enroll in (and receive any bene-  
14 fits under) the TRICARE program pursuant to an  
15 election under subsection (a).

16 “(2) The number of TRICARE-eligible individ-  
17 uals who made an election described under sub-  
18 section (a) but, as of the date of the submittal of the  
19 report, are enrolled in the TRICARE program pur-  
20 suant to a change of election under subsection (b).

21 “(h) DEFINITIONS.—In this section:

22 “(1) The term ‘TRICARE-eligible individual’  
23 means an individual who is—

24 “(A) eligible to be a covered beneficiary en-  
25 titled to health care benefits under the

1 TRICARE program (determined without regard  
2 to this section); and

3 “(B) not serving on active duty in the uni-  
4 formed services.

5 “(2) The term ‘special enrollment period’ means  
6 the period in which a beneficiary under the Federal  
7 Employees Health Benefits program under chapter  
8 89 of title 5 may enroll in or change a plan under  
9 such program by reason of a qualifying event or dur-  
10 ing an open enrollment season. For purposes of this  
11 section, such qualifying events shall also include  
12 events determined appropriate by the Secretary of  
13 Defense, including events relating to a member of  
14 the armed forces being ordered to active duty.”.

15 (2) CONFORMING AMENDMENT.—The table of  
16 sections at the beginning of chapter 55 of such title  
17 is amended by inserting after the item relating to  
18 section 1097d the following new item:

“1097e. TRICARE program: election of eligibility.”.

1       (c) EFFECTIVE DATE.—The amendments made by  
2 subsection (a) shall apply to months beginning after De-  
3 cember 31, 2016.

Passed the House of Representatives November 29,  
2016.

Attest:

KAREN L. HAAS,

*Clerk.*