

New Law Clarifies Employer Mandate and HSA Eligibility for Veterans

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On July 31, 2015, President Obama signed into law H.S. 3236, Surface Transportation and Veterans Health Care Choice Improvement Act of 2015. Notably, the law makes changes affecting the employer mandate and HSA eligibility as to individuals who are (or were formerly) service members.

- Employees with TRICARE or Veterans Benefits are not counted when determining ALE status. When counting employees in a prior calendar year to determine whether an employer is an applicable large employer (“ALE”), thus subject to the employer mandate under 4980H, any employee who has coverage under the TRICARE program or Veterans Coverage is not counted. However, if the employer is an ALE, employees with TRICARE or Veterans Benefits need to be analyzed for full-time employee status. This is effective as of January 1, 2014 (retroactive application).
- Certain Veterans Benefits do not disqualify an individual from HSA eligibility. Effective for months beginning after December 31, 2015, an individual with Veterans Benefits for a service-connected disability will not fail to be eligible to open or make contributions to an HSA. Otherwise, under an existing rule, an individual who receives Veterans Benefits is not HSA eligible for 3 months after receipt of such benefits.