



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF THE CHIEF COUNSEL

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Dear

I am responding to your inquiry dated December 14, 2015, regarding the treatment of TRICARE coverage for purposes of the Affordable Care Act.

You have indicated that the county government provides additional taxable compensation for employees with other health coverage who forego the coverage under the group health plan provided by the government. You expressed concern whether this would be compliant with various provisions governing group health plans often referred to as the group market reforms (see section 9815 of the Internal Revenue Code which applies the provision of part A of title XXVII of the Public Service Act to group health plans) if the other health coverage was coverage under TRICARE for retired military veterans.

Although payments to reimburse premiums for certain other health coverage that is not group health plan coverage raises certain issues with respect to compliance with the group market reforms, the design you describe – a payment of taxable additional compensation unrelated to the cost of other coverage of the employee -- does not result in a health plan subject to the group market reforms. While such an arrangement does have implications for the amount of the employee contribution for the group health plan for affordability purposes under sections 4980H and 36B of the Internal Revenue Code, the payment does not result in an employer payment plan or health reimbursement arrangement. For further information on potential implications under sections 4980H and 36B, we have enclosed a copy of recently issued guidance, Notice 2015-87 (2015-

52 IRB 889), which discusses these issues in the context of these types of arrangements.

I hope this information is helpful. If you have any questions, please call me at

Sincerely,

Kevin Knopf
Senior Technician Reviewer
Health and Welfare Branch
Office of Associate Chief Counsel
(Tax Exempt and Government Entities)

Enclosure