



GOP ‘silly’ to release post-ruling plan before King v. Burwell decision

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It is “silly” for Republicans to put together a response to the Supreme Court’s expected June ruling on the legality of subsidies in the federal health care exchange, the health policy director at the CATO Institute, which helped launch the lawsuit, said Monday.

Speaking at a HIX policy summit in Washington, Michael Cannon said should the ruling make subsidies illegal, it is hard to predict where things will end up, as the two sides are so polarized on the issue. “It’s silly for Republicans for to put together a response at this point because [they] don’t know what will happen and how the administration will respond,” he said. “The administration is saying, ‘There is nothing we can do. We don’t have backup plans.’ Everyone in this room will agree they are lying.”

“They don’t want this to be so disruptive,” Cannon added. If the subsidies are ruled illegal in the case, King v. Burwell, the 72% of Americans who receive a subsidy will have to pay 100%. That outcome will likely lead to a bad risk pool, as the sick will pay for coverage and the healthy will stop paying altogether, he said.

Speaking separately at the conference, Kevin Counihan, Healthcare.gov CEO, repeated the Obama administration’s talking points on a post-ruling plan, saying Health and Human Services Secretary Sylvia Burwell believes “we are on the right side of this issue.” He added that “they’ve given me enough to do to keep the trains working. I don’t need to worry about this issue,” joking it was way above his pay grade.

“Keep in mind subsidies don’t lower cost, they shift cost,” Cannon said. “People are not going to like having full cost, but it is unlikely that the president or Republicans are going to like the other ones first choice” on a new plan. Rather, it’s is going to be a “great, big confusing mess,” he added.

Another impact if the subsidies are ruled illegal and there is no quick fix is that insurance companies may run into solvency problems, said Timothy S. Jost, law professor at Washington and Lee University School of Law in Lexington, Va.

“You are going to have millions of people lose insurance very quickly because their premiums will go up 200% to 700%,” he said. “Now the non-group market is one large risk pool. It will not only [impact] people on the exchange but the entire non-group market.”