

ERRORS OF ENCHANTMENT

Why is New Mexico not realizing its potential?

Good news for American Health Care: Another Court deals blow to ObamaCare

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The *Hobby Lobby* decision generated a lot of attention, but the real threat to ObamaCare is more likely to come from decisions like the one made today by the U.S. Court of Appeals for the District of Columbia in the *Halbig case*.

Michael Cannon, a health care expert with the Cato Institute, has done extensive reporting on *Halbig* and its potential impact on ObamaCare. Just yesterday, he summarized the case, saying that it:

(C)halleng(es) the legality of the health-insurance subsidies the IRS is dispensing in the 36 states that did not establish a health-insurance Exchange under the Patient Protection and Affordable Care Act, or “ObamaCare,” and thus have Exchanges established by the federal government. Though the PPACA repeatedly states those subsidies are available only “through an Exchange established by the State,” and there are indications IRS officials knew they did not have the authority to issue subsidies through federal Exchanges, the IRS is dispensing billions of dollars of taxpayer subsidies through federal Exchanges anyway.

In other words, the Courts could offer yet another rebuke to the Obama Administration which has repeatedly ignored or reinterpreted laws passed by Congress in ways that benefit its own agenda. Obama can argue whatever way he wants about what Congress “intended” to write into the law, but what really matters is what the law actually says, as written.

I’m no expert on the Supreme Court, but it seems unlikely that The Court will overturn this decision which is based on clear and unambiguous language. This is good news if you share the view that ObamaCare takes US health care down the wrong path towards big-government command-and-control policies and further away from market-based solutions.

As Cannon notes, Large numbers of New Mexicans (more than 94,000 to be exact) could be exempted from the individual mandate in the event that *Halbig* is upheld or is not appealed:

Table 1 - Residents of Federal-Exchange States whom *Halbig* Would Free from Individual Mandate

Alabama	141,495
Alaska	35,631
Arizona	289,207
Arkansas	129,162
Delaware	25,695
Florida	925,276
Georgia	420,277
Idaho	77,820
Illinois	455,272
Indiana	195,627
Iowa	89,566
Kansas	96,370
Louisiana	210,359
Maine	36,854
Michigan	288,130
Mississippi	127,693
Missouri	208,010
Montana	42,434
Nebraska	65,976
New Hampshire	40,966
New Jersey	328,802
New Mexico	94,363
North Carolina	400,994
North Dakota	18,647
Ohio	386,751
Oklahoma	167,876
Pennsylvania	357,679
South Carolina	220,882
South Dakota	25,695
Tennessee	235,565
Texas	1,553,367
Utah	103,320
Virginia	287,102
West Virginia	61,620
Wisconsin	140,859
Wyoming	26,625
Subtotal	8,311,967

Estimates of previously uninsured residents whom the IRS tax-credit rule would unlawfully subject to individual-mandate penalties, and thus would be freed from penalties by a ruling for the *Halbig* plaintiffs. Source: Michael F. Cannon, 50 Vetoes: How States Can Stop the Obama Health Care Law, Cato Institute *White Paper*, March 21, 2013.