



# Appeals court undercuts key tax plank in health care law

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A top appeals court on Tuesday undercut a key plank of the Affordable Care Act, ruling that tax credits that help consumers buy coverage can't be provided in the 36 states that use the federal health insurance marketplace.

In a highly anticipated 2-1 ruling, the U.S. Court of Appeals for the D.C. Circuit concluded the Internal Revenue Service stretched the law's ambiguous language too far in allowing subsidies through the HealthCare.gov website.

"Although our decision has major consequences, our role is quite limited: deciding whether the IRS Rule is a permissible reading of the ACA," Judge Thomas Griffith wrote for the majority, adding that the court "concluded it is not."

Griffith, a Republican appointee, added that "we reach this conclusion, frankly, with reluctance," noting that "our ruling will likely have significant consequences both for the millions of individuals receiving tax credits through federal exchanges and for health insurance markets more broadly."

"High as those stakes are, the principle of legislative supremacy that guides us is higher still," Griffith added.

The case, *Halbig v. Sebelius*, argued that the health law doesn't allow the federal government to provide subsidies \_ which help people purchase health coverage \_ in states that use the federal marketplace.

That's because a section of the health care law says the tax credits can only be applied to coverage purchased "through an exchange established by the state."

Conservative scholars Jonathan Adler and Michael Cannon, who first touted the loophole in the law, have said it was intentionally written in order to coerce states into running their own marketplaces.

The federal government argued the language was merely a drafting error, which could easily be fixed if not for the polarized state of Congress, which has made it nearly impossible to make any legislative fixes to the law.

The government maintained that other aspects of the law makes clear Congress intended to provide the tax credits in all states.

The U.S. District Court for the District of Columbia Circuit dismissed the suit in January.

Ron Pollack, executive director of Families USA, a liberal patient advocacy group that filed an amicus brief, has called the case “probably the most significant existential threat to the Affordable Care Act.”