



Imminent Court Ruling Could Cripple Obamacare

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President Barack Obama is facing a "death spiral" for Obamacare as a federal court weighs a controversial legal challenge that could wipe out healthcare subsidies for millions of Americans.

The "bomb-thrower" case that could spark the destruction of Obama's landmark domestic policy centers around the subsidies that 5 million Americans received when buying insurance through the HealthCare.gov exchanges, which sold coverage for 36 states this year, according to CNBC.

The plaintiffs in the little-known case, *Halbig v. Sebelius*, allege that these subsidies were illegal because Obamacare only permitted tax credits to be given to people who had bought insurance from the 14 individual states with their own exchanges, as well as the District of Columbia, not federal exchanges.

CNBC reported that 90 percent of enrollees in the federal exchanges qualified for subsidies due to their low or moderate incomes. The Affordable Care Act could go into a tailspin, before finally crashing and burning, if the courts now rule that those credits are illegal.

"For now, the stakes are a lot higher than the odds of success — challenges to the insurance subsidies have a 0-2 record in federal courts," he wrote Monday. "But the pending D.C. Circuit ruling may be the one to break that streak, according to legal experts on both sides of the issue."

Adds CNBC: "Take away those subsidies and many, if not most, of the enrollees on HealthCare.gov might not buy insurance next year because they will find it unaffordable at the full premium price."

"That, in turn, could create a much-feared 'death spiral,' where insurance pools have too many sick enrollees and not enough young healthy ones, and premium rates skyrocket."

Mangan also pointed out that if individuals in the states covered by HealthCare.gov cannot receive subsidies, it would also mean that the government would not be able to force businesses in those same states to provide affordable healthcare insurance to their employees under the

threat of federal fines.

The so-called employer mandate in the Affordable Care Act is tied to the availability of subsidies for workers seeking individual insurance, CNBC said in explaining how Obamacare could collapse like a house of cards.

"If the courts were to decide that the Halbig plaintiffs were right, it would be a huge threat to the ACA," said Obamacare expert Timothy Jost, a professor at the Washington and Lee University School of Law. "This is a real bomb-thrower."

A decision on the case being heard by the U.S. Court of Appeals for the District of Columbia Circuit could come as early as Tuesday. And Halbig supporters are hopeful of winning the suit after two members of a three-judge panel who heard oral arguments on the case appeared sympathetic, CNBC reported.

"This has been under the radar for so long," said Michael Cannon, director of health policy studies at the libertarian Cato Institute, which helped to write the argument in the Halbig case and three other similar federal court challenges to Obamacare, including one which will soon be decided by the Fourth U.S. Circuit Court of Appeals.

"It's a very big deal," said Ron Pollack, who founded the healthcare advocacy group Families USA, as well as Enroll America, which pushed for people to enroll in Obamacare.

Noting that 5 million people who've received healthcare subsidies could "have them taken away," he added, "It certainly would cause a lot of people to rejoin the ranks of the uninsured.

"The provision of the tax credit premium subsidy makes a huge difference in terms of whether people considering enrollment or enrolling in coverage will find such coverage affordable."

Jost pointed out that congressional leaders involved in passing the law recently filed a legal brief saying it was never their intention to have the federal exchange be prevented from having credits used by consumers, CNBC added.

But Cannon alleged that the language of the Affordable Care Act makes it clear that subsidies can only be issued through state-run exchanges, not a federal exchange. He said that the Obama administration could solve its dilemma by asking Congress to amend the law, which could open up a whole new can of worms.

"The only way you're going to get a fix through is major revision, and that might include a major scaling back of the law," Cannon said. "And that's democracy. And that's what the Obama administration's vision of the law is trying to subvert."