



## Did Scott Walker Just Become the Newest Obamacare Defender?

**Expect to hear more about the Wisconsin governor's on-camera comments if he enters the 2016 presidential race.**

By Betsy Woodruff

Obamacare advocates have had a rough time of it lately. In November, the Obama administration [admitted](#) to erroneously overstating the number of enrollees by counting people who signed up for dental plans. In December, MIT economist and Affordable Care Act architect Jonathan Gruber got dissected by a House panel for a string of excruciatingly candid comments about the law's design. (Its success, Gruber had previously argued, was in part due to "the stupidity of the American voter.") And this month, the *New England Journal of Medicine* [is running a paper](#) saying the ACA's supporters "have good reason to worry" about an upcoming Supreme Court decision that could gut the law.

But on Wednesday—finally!—ACA defenders thought they may have caught a break. "Republican Governor Caught on Tape Demolishing the Legal Case Against Obamacare," blared a [ThinkProgress headline](#). In the piece, the site's justice editor Ian Millhiser detailed comments that Wisconsin Gov. (and potential 2016 Republican presidential contender) Scott Walker made to the *Wall Street Journal* in 2013 about his interpretation of the president's health care law.

Walker's money quote is this: "But, in the end, there's no real substantive difference between a federal exchange, or a state exchange, or the in-between, the hybrid, the partnership."

No, it's not exactly eye-popping. But Millhiser argues that the governor's comments could be relevant for the Supreme Court's upcoming decision in *King v. Burwell*. The plaintiffs in *King* argue that the plain reading of the ACA dictates that subsidies to make health insurance affordable for low-income people are only available to those who live in states that set up their own health insurance exchanges. In other words, the plaintiffs contend that if you purchase your health insurance through the federal exchange, the government can't give you a subsidy to help offset the cost. The government is the defendant in the case (the case's title refers to Health and Human Services Secretary Sylvia Mathews Burwell). Its lawyers argue that the Internal Revenue

Service rule—used to clarify the intent of the law and allow the government to give you a subsidy—is legal.

This is where foot-in-mouth-disease-carrier Jonathan Gruber comes in. Gruber was a key creator of the ACA, and in one video he says, “What’s important to remember politically about this is if you’re a state and you don’t set up an exchange, that means your citizens don’t get their tax credits.” Opponents of the ACA use that quote to undergird their argument that subsidies are only available to people who buy health insurance through exchanges run by their home states.

Gruber has been a slow-motion car accident for the ACA’s defenders. So the discovery of years-old, on-camera comments from a prominent Republican that boost their argument should be a marvelous delight. Is that what they got?

Of course, it depends on whom you ask. Chris Lillis, the Virginia state director of the unabashedly pro-ACA Doctors for America, celebrated the comments.

“Walker said what we all know: that this law was written in a way to provide subsidies to low-income Americans to get health insurance,” he said. “Full stop.”

“For those of us who support the law, what’s great about this is that he said [these comments] on camera, so they’re really unassailable,” he added.

And professor of social service administration and public health sciences at the University of Chicago Harold Pollack—also a vocal ACA supporter—also found Walker’s comments helpful.

“It provides a valuable reminder that this is the way everyone approached the implementation of this law,” he said.

If Millhiser, Lillis, and Pollack are all correct, then Walker’s comments could be a big problem, both for his political prospects and for his party’s efforts to stop the ACA. Naturally, that’s a big *if*. And Michael Cannon, director of health policy studies at the libertarian-leaning Cato Institute, doesn’t buy it.

“The irony is, you have someone saying you have to read the ACA in context, and completely ignoring the broader context of Walker’s remarks,” he said.

Cannon argues that Walker was making a narrow comparison between the state and federal exchanges in terms of how much control state governments would have over the law’s implementation.

“As a gotcha? Come on,” said Cannon. “This is weak sauce. This is just lazy, awful, dumb stuff.”

And Phil Kerpen, who runs the fiscal conservative advocacy organization American Commitment, was also unimpressed by *ThinkProgress*’s finding.

Walker “correctly assessed the situation under the IRS rule and we all saw this interview years ago,” Kerpen emailed. “This is pure [Center for American Progress] spin for their health-insurance industry funders.”

The Center for American Progress Action Fund runs *ThinkProgress*. Its 2013 [corporate donors included](#) America’s Health Insurance Plans, the Blue Cross Blue Shield Association, CareFirst BlueCross BlueShield, and Blue Shield of California.

But Cannon doesn’t think this means Walker gets off scot-free.

“He is the only Republican governor who refused to establish an exchange but still put forward a proposal that relied on there being subsidies in a federal exchange,” Cannon said. “That was a pretty questionable move.”

In other words, Walker might not have had an on-camera gotcha moment, but his policy shop operated under the assumption that the federal exchange customers would get subsidies. The [Wisconsin State Journal detailed](#) how the federal exchanges were “a key aspect” of the governor’s 2013 health care proposal that he put forward as an alternative to accepting the Medicaid expansion offered under the ACA.

“You’re going to hear some detractors claim that moving people to the private market or to the exchanges isn’t affordable,” Walker said at the time, [according to Kaiser Health News](#). “I think most people would find it hard to imagine that with the tax subsidies, that \$19 a month is somehow not affordable. I think it is.”

That means that the governor assumed people would be able to get subsidies for insurance purchased through the federal exchange. It’s possible he assumed this while privately agreeing with the *King v. Burwell* plaintiffs’ reading of the ACA. His office didn’t respond to a request for comment.

Regardless, Walker can expect substantial scrutiny of everything he’s ever said about health care if he launches a presidential bid. Even if these charges are “weak sauce,” there could be more to come.