



Federal appeals court strikes blow against ObamaCare subsidies

By Elise Viebeck
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A federal appeals court on Tuesday struck down one of the pillars of ObamaCare, ruling that the law's premium subsidies are invalid in more than two-dozen states.

The D.C. Circuit Court of Appeals said in a 2-1 decision that the Affordable Care Act (ACA) does not permit the IRS to distribute premium subsidies in the federal ObamaCare exchange, meaning those consumers must bear the full cost of their insurance.

"Because we conclude that the ACA unambiguously restricts the section 36B subsidy to insurance purchased on Exchanges 'established by the State,' we reverse the district court and vacate the IRS's regulation," the court said in its ruling.

The ruling by the three-judge panel sets up a major legal showdown that conservatives believe could deal a fatal blow to President Obama's healthcare law.

The Obama administration quickly signaled it would appeal the ruling to the full D.C. Circuit, but even if it triumphs there, the case appears destined for the Supreme Court.

The ruling in *Halbig v. Burwell* tossed out the ObamaCare subsidies on the grounds that the statutory language of the healthcare law does not explicitly allow enrollees on the federal exchanges to receive premium tax credits.

Previous courts had rejected that argument, saying Congress's clear intent was to provide the subsidy help to everyone in the system.

D.C. Circuit Judge Harry Edwards, the dissenting voice and long Democrat on the three-judge panel, wrote in his dissent that the "myopic" majority opinion "ignores the basic tenets of statutory construction" and "defies the will of Congress and the permissible interpretations of the agencies."

"Appellants' argument cannot be squared with the clear legislative scheme established by the statute as a whole," he wrote.

Experts estimate that the ruling, if upheld, could block roughly \$36 billion in subsidies for roughly 5 million people and produce massive upheaval in the federally run exchanges.

Some have speculated that consumers might even have to pay back the subsidies they already received from the government, an outcome that would be disastrous for the Obama administration.

But Speaker John Boehner (R-Ohio) said the ruling is proof that the healthcare law is "unworkable" and "cannot be fixed."

"The American people recognize that ObamaCare is hurting our economy and making it harder for small businesses to hire, and that's why Republicans remain committed to repealing the law and replacing it with solutions that will lower health care costs and protect American jobs," he said.

The legal battle may not be resolved for months, experts say, and confusion over the legality of the subsidies will likely have consequences for ObamaCare's second enrollment period, which begins in November.

White House press secretary Josh Earnest said that "while this ruling is interesting to legal theorists, it has no practical impact" on individuals' ability to currently receive tax credits for their health care.

"You don't need a fancy legal degree to understand Congress intended" for qualified individuals to receive tax credits regardless of who was administering the exchange, Earnest said.

Supporters of the healthcare law painted the suit as a political attempt to undermine the exchanges and predicted that Tuesday's ruling will never go into effect.

"Today's decision represents the high-water mark for Affordable Care Act opponents, but the water will recede very quickly," said Families USA Executive Director Ron Pollack in a statement.

Proponents of the lawsuit have argued that knocking down subsidies on the federal exchange would help the economy.

"Backers of the [Obama] administration have it backward when they warn Halbig could cause massive disruption," wrote Michael Cannon, director of health policy at the Cato Institute, in a **blog post** last week.

"The purpose of *Halbig* is to end the massive economic and political disruption caused by the president's decision to ignore the clear statutory language he is sworn to uphold."