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**With Obama ratings slipping, might his signature law fall with him?**

By: David Woodburn - December 3, 2013

As reports surface that President Obama is recording some of the lowest approval ratings ever recorded for a sitting, second-term president, his signature piece of legislation – the Affordable Care Act, a k a ObamaCare – is still working through kinks while also snaking its way through several lawsuits which are challenging various portions of the law.

As the law reaches full implementation January 1 – that is the date in which the IRS is schedule to begin imposing penalties to those taxpayers who do not have health insurance (at least according to the original drafting of the law) – a couple of important court decisions may be handed down by then which could at least slam the brakes on the law's implementation, if not derail it altogether.

With the dizzying speed in which the Democrat-controlled Congress pushed the 2,700-page law through in late 2009, it was possible that some details might have been missed or had not been corrected prior to the law being signed in early 2010. A couple of those details have resulted in a pair of lawsuits in Virginia and D.C., and they surround the individual mandate and subsidies for those who enroll for insurance through one of the exchanges set up through the legislation.

In the law, it says that subsidies would be available for all who enroll in a healthcare exchange as long as the exchange is set up by the states. It turns out that an unintended consequence of that provision was that there would be a majority of states that would opt not to set up exchanges, leaving them for the federal government. Thirty-four states passed on setting up exchanges, which means that nearly 200 million people would not get federal subsidies for health coverage. And in a related provision, if these people are not granted access to the subsidies, then they cannot, by law, be assessed a "tax penalty" by the IRS.

The judges who are hearing arguments on the cases in D.C. and Virginia have indicated they may issue their rulings before Jan. 1, and finding in favor of the plaintiffs in both cases could result in an injunction against the implementation of the individual mandate and thus suspending the tax penalty for all taxpayers.

"This is far more egregious than any other step the president has taken to ignore or rewrite federal law," said Michael Cannon, director of health policy studies at the Cato Institute. "Here, what the president is doing is trying to borrow and spend hundreds of billions of dollars that Congress expressly prohibits him from touching, from spending."