



## Obamacare court decision ‘potentially crushing’ for NM health exchange

By: Rob Nikolewski  
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An appeals court decision in Washington, D.C., on Obamacare subsidies could be “potentially crushing” for New Mexicans who signed up for individual health care policies expecting big tax credits to reduce their monthly premiums, a member of the New Mexico Health Insurance Exchange said.

The District of Columbia Circuit Court of Appeals, in a 2-1 decision Tuesday morning, struck down subsidies granted in states using federal health exchanges, dealing a blow to the Affordable Care Act across the country.

“That means everybody who signed up on healthcare.gov is not eligible for tax subsidies,” said Dr. Deane Waldman, who has served on the NMHIX board since it was established last spring, “which means they’re going to be exposed to the full and greatly increased cost of insurance premiums.”

At issue before the court in the *Halbig v. Burwell* case was the wording in the ACA, which said subsidies could only be granted by state exchanges, not the federal exchange.

While NMHIX sold plans for businesses this past year, all individual plans had to go through the federal [www.healthcare.gov](http://www.healthcare.gov) website that experienced a series of mishaps during its rollout.

According to the most recent numbers from the U.S. Health and Human Services Department, 32,062 people in New Mexico signed up for individual policies and 79 percent are receiving subsidies.

“If this is upheld, they’re not going to see \$300 or \$400 they paid (all of) last year but \$500 or \$600 a month because the insurance premiums have gone up tremendously in our country because of the ACA,” Waldman told New Mexico Watchdog.

Tuesday’s ruling hits the 27 states that did not set up state-based exchanges and nine other states — including New Mexico — that used a combination of federal and state exchanges.

The Obama administration says it will call for an “en banc” hearing on the ruling, which would have the entire Court of Appeals listen to the D.C. case.

Reacting to the decision, White House Press Secretary Josh Earnest said “there’s a clear, commonsense case to be made” that the intent of the ACA “was to be sure that every eligible American who applied for tax credits to make their health insurance more affordable would have access to those tax credits whether or not the marketplace was operated by federal officials or state officials.”

Supporters also pointed to another ruling that came down Tuesday in Virginia in a separate case that decided the wording in the ACA was written so ambiguously that subsidies could be allowed.

But Obamacare critics say they could see a ruling like this coming.

“Neither executive-agency bureaucrats nor judges can change the text of the Affordable Care Act, after-the-fact legal rationalizing notwithstanding,” said Michael Cannon, director of health policy studies at the Cato Institute. “Today’s ruling shows that Obamacare, a cynical political bargain that lacked popular support from day one, simply doesn’t work as conceived. It’s time to repeal this Frankenstein’s monster and instead pass market-based health care reform that lowers costs, expands choice, and increases quality — all while respecting the rule of law.”

Cannon said the Halbig decision will not increase premiums.

“What it would do is prevent the IRS from shifting the burden of those premiums from enrollees to taxpayers,” Cannon wrote in *Forbes*. “Premiums for federal-exchange enrollees would not rise, but those enrollees would face the full cost of their ‘ObamaCare’ plans.”

Waldman said the NMHIX board will take up the implications of the Halbig decision Friday when it meets in Albuquerque.

“This leaves us in limbo,” Waldman said. “This is a big deal ... The American public could see that the Affordable Care Act is tremendously unaffordable.”