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Insurers lobby goes to bat for Obamacare

Lawsuit challenges subsidies under law

A major trade group for America's health insurers is supporting the Obama administration's defense against a lawsuit that questions whether Congress intended to let Obamacare tax credits flow to states that opted to let the federal government run their new insurance markets.

America's Health Insurance Plans (AHIP) filed a brief this week with the D.C. Circuit Court that says cutting off government subsidies to residents of the 34 states in question would disrupt the Affordable Care Act's fragile economics.

"It would leave consumers in those states with an unstable market and far higher costs," AHIP's attorneys said.

Several businesses and individuals sued the Obama administration in Halbig v. Sebelius because the text of the health care law says tax credits to help people pay for private health plans should go to markets, or "exchanges," that are "established by the State."

Republican lawmakers and health experts at the libertarian Cato Institute have said the law is clear, and that Congress dangled the subsidies as a reward for states that decided to take responsibility for their exchanges.

The administration said Congress never intended to treat certain states differently than others, and that the secretary of the Health and Human Services Department "stands in the shoes of" each state that decided not to run its exchange.

A U.S. District Court judge agreed with the government, setting up an appeal.

AHIP is going to bat for the government because, it says, the tax credits make coverage more affordable and work alongside the law's individual mandate, or "shared responsibility requirement," which forces almost all Americans to gain insurance and broaden risk pools, now that sicker consumers with preexisting medical conditions cannot be denied.

"The tax credits and the shared responsibility payments are essential components of a sustainable private market for insurance," AHIP said in its brief.

From a consumer's perspective, the group added, it makes no difference if the exchange is run by the state or the federal government.

But plaintiffs who brought the lawsuit say the administration blatantly rewrote the clear language of the health care law by issuing an IRS rule that extended subsidies to states with federally run exchanges.

Employers who joined the lawsuit said the subsidies expose them to the law's "employer mandate," which in the coming years will force large employers to offer health coverage or pay fines. The mandate is triggered when at least one employee takes advantage of tax credits on the Obamacare exchanges.

Another one of the plaintiffs, a West Virginia man, said he qualified for a hardship exemption from the individual mandate because he didn't make enough money to afford coverage under the law's definitions. But the tax credit in his state bumped him into an affordable range, forcing him to acquire coverage he doesn't want.